

Education-Related Laws from the Perspective of Kuwaiti Official Influencers: An  
Exploratory Study

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**ABSTRACT**

This study seeks to explore and describe education-related laws in Kuwait with respect to the broader context of educational law. Employing a methodical, qualitative approach, data were collected using semi-structured interviews with twelve Kuwaiti official influencers that included parliamentary members, ex-Ministers of Education, and directors of general education. Interviews were conducted to generate insights regarding the nature and extent of the existing education-related laws in Kuwait. In addition, the interviews delved into the process surrounding the formation and implementation of education-related laws, and the influences that can affect them. Lastly, data from the interviews identified areas for improvement in Kuwait's education-related law.

During the interview process, measures were taken to ascertain the credibility and dependability of the results obtained. Data were analyzed and validated using thematic analysis for reduction and identification of essential themes. Five main themes emerged from the data analysis: (a) the characteristics of education-related laws; (b) the problems in forming education-related laws; (c) the obstacles hindering implementation of education-related laws; (d) the strong influence of actors on education-related laws; and (e) the need for more effective education-related laws. For each theme two sub-categories were also developed.

The findings of this study demonstrate that education-related laws play a vital role in structuring, and the monitoring of, the educational system in Kuwait. Moreover, findings illustrate the absence of, and critical need for, an authority to evaluate existing education-related laws. In addition, the lack of stakeholder participation, or the influence of scientific research, in creating education policy became evident. The analysis of the research data determined that actors, both official and unofficial, affecting education-related laws included legislators, Ministers of Education, the judiciary, local and international professional association representatives, parents, and the media. Furthermore, there is evidence suggests that policymakers must become more aware of the important role stakeholders should play in the

formation of education-related laws and the need for building capacity to develop, implement and evaluate education-related laws. In addition, findings show the need for new education-related laws to ensure that teacher, student, and parent rights are protected. Perhaps most importantly, this study reveals the necessity for the State to create a long-term strategic vision regarding education policy that is free from the whims of the Minister of Education, to provide continuity and stability in the growth of the Kuwaiti educational system.

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**GENERAL AUDIENCE ABSTRACT**

The purpose of this study is to describe education-related laws in Kuwait with respect to the broader context of educational law. Data were collected using interviews with twelve Kuwaiti official influencers that included parliamentary members, ex-Ministers of Education, and directors of general education. Interviews were conducted to generate insights regarding the nature and extent of the existing education-related laws in Kuwait. In addition, the interviews delved into the process surrounding the formation and implementation of education-related laws, and the influences that can affect them. Lastly, data from the interviews identified areas for improvement in Kuwait's education-related law.

The findings of this study demonstrate that education-related laws play a vital role in structuring, and the monitoring of, the educational system in Kuwait. Moreover, findings illustrate the absence of, and critical need for, an authority to evaluate existing education-related laws. In addition, the lack of stakeholder participation, or the influence of scientific research, in creating education policy became evident. The analysis of the research data determined that actors, both official and unofficial, affecting education-related laws included legislators, Ministers of Education, the judiciary, local and international professional association representatives, parents, and the media. Furthermore, there is evidence suggests that policymakers must become more aware of the important role stakeholders should play in the formation of education-related laws and the need for building capacity to develop, implement and evaluate education-related laws. In addition, findings show the need for new education-related laws to ensure that teacher, student, and parent rights are protected. Perhaps most importantly, this study reveals the necessity for the State to create a long-term strategic vision regarding education policy that is free from the whims of the Minister of Education, to provide continuity and stability in the growth of the Kuwaiti educational system.

## **DEDICATION**

To my parents: No words of thanks can repay you for lives spent teaching your children that commitment is the key to self-dignity. May you continue to be there for me for the years to come.

To my beloved husband: Thank you for graciously sharing every step of the way with unconditional love and support.

To my wonderful children: Thank you for being the joy of my life.

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## LIST OF ABBREVIATION

APA	American Psychological Association
CIA	Central Intelligence Agency
CACG	Committee on Affairs of Education, Culture and Guidance
IDEA	Individual Disability Education Act
IRB	Institutional Review Board
MoE	Ministry of Education
NCLB	No Child Left Behind Act
NCED	National Center for Education Development
OECD	Organization for Economic Cooperation and Development
PIRLS	Progress in International Reading Literacy Study
RTTT	Race to the Top Act
NIE–Singapore	National Institute of Education in Singapore
U.S.	United States of America
UN	United Nations
UNICEF	United Nations Children's Fund
UNESCO	United Nations Educational Scientific and Cultural Organization

## CHAPTER I

### INTRODUCTION

All advanced countries consider the sound, formal education of their populace to be a major priority due to the profound effect it has upon the nation's progress. Today, the primary purpose of an effective education is to prepare a nation's youth to excel in the modern workplace, and to become responsible members of society as a whole (Ministry of Education [MoE], 2017). Almost three centuries ago, the economist Adam Smith contended that the prosperity of any nation is dependent upon its ability to make the best use of available labor. Human resources related to education and learning are particularly relevant to developing countries, especially with regard to their social and economic growth. Thus, education is viewed as one of the most important investments a country can make for its people. It provides the means of scientific discovery and social progress, and more generally increases knowledge for the benefit of all society (Alexander, Salmon & Alexander, 2015). A well educated populace is literally the lifeblood of any strong economy.

It follows, therefore, that all school systems should offer equal and fair education to their students. All children, regardless of their cultural background, social status, or level of ability should have the opportunity to learn and expand both their knowledge and cognitive skills (Yell, 2012). On December 10, 1948, the United Nations' General Assembly adopted the *Universal Declaration of Human Rights* that established education as a fundamental human right. Article 26, sub-section (1) states that "[e]veryone has the right to education. Education shall be free, at least in the elementary and fundamental stages" (United Nations [UN], 1949, p. 6). Sub-section (2) further elaborates, saying that education "shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms" (UN, 1949, p. 6). Nations that are signatories to this treaty commit themselves to realizing these objectives.

Similarly, the ruling of the Supreme Court of the United States (U.S.), regarding their landmark case *Brown v. Board of Education* (1954), articulated the importance of educating children as one of society's most important functions, stating,

Today, education is, perhaps, the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society....

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right, which must be made available to all on equal terms. (p. 493)

Based on this context, educational law has been of interest for many policymakers and researchers (Alexander, 2015; Dayton, 2012; Joubert & Prinsloo, 2009; Mawdsley, Smit, & Wolhuter, 2013; Thomas, Crambron-McCabe & McCarthy, 2009). ‘Educational Law’ can be characterized as a portion of the larger body of the law that comprises all legislation, policies, and regulations which control the management of schools, school systems, and other education institutions and programs; it is the foundation for securing equal opportunity for all children (Imber, Van Geel, Blokhuis, & Feldman, 2013; Proudfoot & Hutchings, 1988; Sperry, 1998). Related to this, Schimmel, Stellman, Conlon and Fischer (2015) noted that schools exist and function in the midst of a complex legal environment; as such, it is difficult to remain unaware of the wide range of legal issues that influence the lives of teachers, students, parents and administrators. Indeed, researchers have found that having a comprehensive system to determine its legal boundaries plays an important role in providing quality education, maintaining order in schools and school systems, or ensuring educational stability in general (Alam, Ismail, & Mishra, 2010; Alexander, Wang, & DeSander, 2016). Alam et al. (2010) have argued that educational systems all over the world are targets for change, simply stating that, “Educational law is a demand of the times” (p. 3414).

Educational law is critical, not only for the quality and order within a school system, but also for ensuring that the rights of all stakeholders - parents, teachers, and students - are respected in the school setting. It constantly seeks to find balances between: (a) children’s rights and parents’ rights; (b) student safety and respect for individual freedom; and (c) accommodating students with disabilities and strict budgetary concerns (Findlay, 2007). Educational law plays an important role in protecting teachers’ rights as employees, as well as their academic freedoms (McCarthy, Cambron-McCabe, & Eckes, 2013). Studies have also shown that a safe and orderly school atmosphere is an essential prerequisite for scholastic achievement (Cornell & Mayer, 2010; Hernández & Seem, 2004; Kutsyuruba, Klinger, & Hussain, 2015; Stewart, 2008). Such legal tenets provide the framework for most of an educator’s decisions (Brien, 2004; Kerrigan, 1987). As Roher (2001) observed “[e]very action taken by a school board, school administrator,

principal, or teacher is founded upon a law which either permits those actions or limits them in some way” (p. 49). Much of the litigation, legislation, and debate in this context has concerned issues such as student rights, compulsory attendance, suspension and expulsion, discipline, child abuse, academic testing and grading, drug testing, search and seizure, freedom of speech, privacy of student records, students with disabilities, and teachers’ rights (Alexander & Alexander, 2015).

Being aware of the intrinsic value and impact that education and educational law can have upon the nation’s future, the State of Kuwait pays them much attention in all of its plans, policies, and strategies; with a constant urge for systematic modernization (MoE, 2017). In 1962, following its passage, the Constitution of Kuwait declared the fundamental right of all citizens to an education, and the government’s overall goal to prepare individuals to become active, thoughtful members of society in both private and public life. This is in contrast to the U.S. Constitution, which does not mention education. Education in the United States is seen as the responsibility of each individual state to handle as it sees fit. However, U.S. Constitutional Amendments have affected educational policy in several ways, largely through the Bill of Rights (Alexander, 2015). For instance: (a) the First Amendment provides that protection of right to freedom of religion and freedom of expression from government interference.; (b) the Fourth Amendment addresses privacy along with search and seizure; and (c) the Fourteenth Amendment has a due process and equal protection clause.

The legal requirements for education in Kuwait are national in nature. As a result, since holding its first session in 1963, the Kuwait National Assembly (the Parliament) has passed several laws that affect the education system, such as the Compulsory Education Law No. 11 of 1965, the Public Education Law No. 4, of 1987, the Rights of Individuals with Disabilities Law No. 8 of 2010, and the Children’s Rights Law No. 21 of 2015 (that eliminates child labour and offers protection for children and adolescents). In Kuwait, there is no specific code of law defined as ‘Educational Law’. Each law related to education is independent of every other such law. In contrast, educational law in the U.S. includes state and federal law that is consonant with all Constitutional concepts, legislation, and regulations that deal with the school system. As there are 50 states, there are 50 different educational systems by necessity and fiat.

Essentially, each state legislature in the U.S. sets its own basic educational laws and rules. However, there are many Federal Statutes which concern education in the U.S., and these have primacy over any conflicting state laws or regulations. Such Federal Statutes include: (a) the Title IX Act of 1972 (prohibiting sexual discrimination); (b) the Individual Disability Education Act (IDEA) of 1975 (prohibiting discrimination against special needs children and others); (c) the No Child Left Behind Act (NCLB) of 2001 (introducing stronger accountability measures and standards into public schooling); and, (d) the Race to the Top Act (RTTT) of 2009 (providing competitive grants to spur and reward innovation and reforms in public schooling). Table 1 is a comparison between the educational systems in Kuwait and the U.S. regarding the context of educational law (Alexander, 2015; MoE, 2017).

Table 1

*A Comparison between the Educational System in Kuwait and the U.S. Regarding the Context of Educational Law*

<b>Mode of Law/ Application</b>	<b>Kuwait</b>	<b>U.S.</b>
<b>Educational Law</b>	Each law related to education is independent of every other. It includes: Constitutional statements, legislation, decrees, administrative policies and regulations which deal with teachers, schools, school districts, and school systems.	A body of state and federal law that covers all the Constitutional concepts, legislation, and regulations which deal with teachers, schools, school districts, school boards, and school systems.
<b>Education in the Constitution</b>	Education is a Constitutional right as outlined in Article 40. Kuwait's Constitution declared the fundamental right of all citizens to an education.	The U.S. Constitution does not mention education. Education is an individual state's responsibility.
<b>Legislation</b>	State legislation, acts passed by the Amir and the National Assembly	Federal and State legislation - On the Federal level, it includes acts passed by Congress and signed by the President. Whereas on the state level, it includes acts passed by the legislative body, and this varies from state to state.
<b>Case Law</b>	Each case in Kuwait is independent	The decisions decided by higher courts must be followed by the lower courts. The results from one case can affect subsequent cases (judicial precedent)

(continued)



Table 1 (cont.)

<b>Mode of Law/ Application</b>	<b>Kuwait</b>	<b>U.S.</b>
<b>Court System</b>	On Kuwaiti State level: Court of Cassation (highest level) Higher Court of Appeal Court of First Instance Constitutional Court	On Federal level*: U.S. Supreme Court (highest level) U.S. Federal Court of Appeals US Federal District Courts *also each state has their own court system.
<b>Compulsory Attendance</b>	Compulsory Education Law No.1 of 1965 requires children aged from 6 to 14 years to attend school (Raised to 15 years old in 2003).	Compulsory attendance varies from state to state, One example is, such as, Virginia's compulsory attendance law applies ages 5-18 for regular children; while the state of Oregon the compulsory attendance law requires school attendance for ages 7-18; all states will differ to some degree.
<b>Education Administration for K-12</b>	The MoE is responsible for the administration and management of all aspects of K-12 education as stated in legislative decree No. 4 of 1987 concerning public education.	U.S. K-12 schools are administered by local school boards, which derive their authority from their state legislatures.
<b>Access to Education</b>	Education is free and the government is responsible for facilities, books, and teachers.	Education is free and the government is responsible for facilities, books, and teachers.
<b>Funding Education</b>	Kuwait's legal requirements for education are national in nature as per Law No. 4, of 1987 concerning public education dictates and funded by the state.	The educational responsibility can be quickly judged based on the source of school funding or where the money to support schools comes from Federal, state, or local financial support.

Overall, a considerable number of previous research studies have revealed an increase in the amount of litigation dealing with educational decisions (Brabrand, 2003; Eyster et al., 2010; Joubert & Prinsloo, 2009). Therefore, many countries have conducted appraisals of their current educational legislation and policies, looking for ways to improve them. This evaluation process takes into account the needs of all stakeholders and powers of authority in order to arrive at an efficient, equitable and effective education system (Johnson & Redfield, 2015). As laws are usually imperfect, there is a near constant need to adjust and amend them over time, especially when loopholes appear, or societal changes project new challenges to previous ways of thinking. For instance, an old law may become incompatible, or even obsolete, when applied to modern cases of the issue it was originally created to resolve; hence, change is required (Green, 1989).

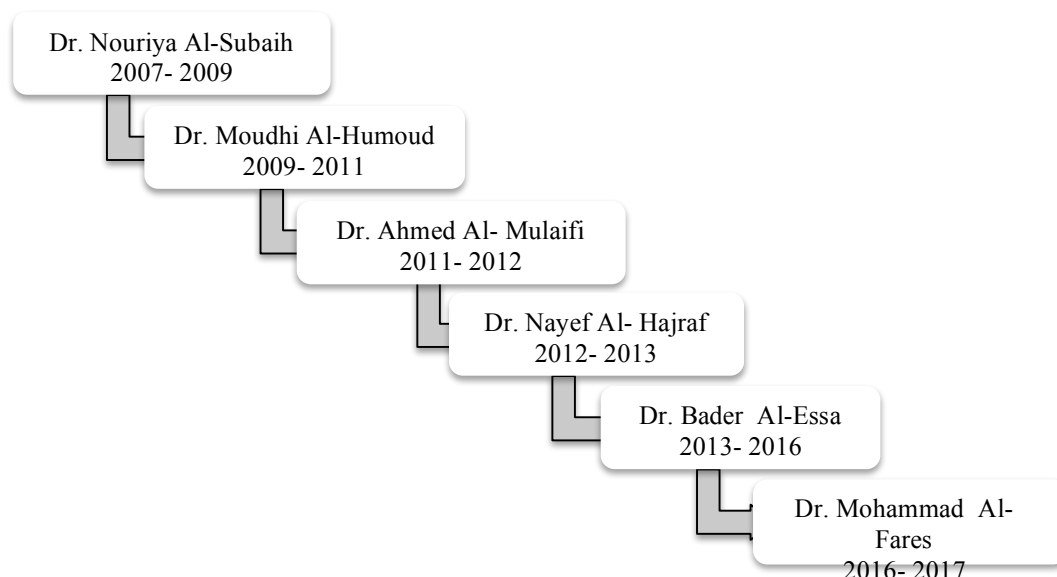
### **Statement of the Problem**

Many evidence suggested the absence of a comprehensive set of education-related laws that cover the rights of all stakeholders in Kuwait (Al-Mahboub, Al-Enazi, Al-Thufairi, & Bu-Farsn, 2013; Al-Temimi, 2015). This paucity of a clearly defined set of rules to govern the

education system has led the courts to become ever more involved in educational litigation (Al-Nakib, 2012). And therein lies a problem, because without such a set of education-related laws, the courts have to refer to other legal codes to make their decisions; such as Civil Law, Administrative Law, and Criminal Law.

In the same vein, the National Institute of Education in Singapore (NIE–Singapore) carried out ‘A Diagnostic Study of Education in Kuwait’ in 2013. This study reviewed the entire educational sector in Kuwait. One of the aspects investigated closely was how policies and procedures formulated by education officials often fail to take into account the rights of teachers, students, and parents. For example, only children who are documented Kuwaiti citizens are guaranteed a place in the nation’s schools, which essentially leaves nearly 70% of the population to fend for themselves. This is untenable, and must eventually change, but finding the infrastructure to cope with such a dramatic increase in students, many of whom will be from different cultures, will place additional stresses upon the system when it does.

The NIE-Singapore diagnostic study also noted that the enforcement of rules and regulations within Kuwait’s educational sector is weak (NIE–Singapore, 2013). The study further illustrates the effect of the country’s rapid and repeated changes in education policy, which occur without regard to a participatory legislative framework. As a result, while Kuwait’s public education system has undergone reform many times over the last few years, most changes were not sustainable (Al-Saleh, 2014). Part of this problem is because control of education policy in Kuwait rests largely in the hands of the Minister of Education (MoE) and, as such, is subject to his personal vision for the country. While this might be manageable if the MoE had a significant tenure of office, allowing their policies to mature, Kuwaiti parliament is inherently unstable and undergoes regular periods of dissolution. More specifically, the regular resignation of the cabinet to avoid awkward questions from members of Parliament has resulted in a total of eleven cabinets from 2007 to 2017 (Al-Nakib, 2012). As a result, there were six new Ministers of Education during that period (as shown in Figure 1). Whenever a new MoE is appointed, education policy shifts, and such frequent changes are often disruptive to those projects already underway (NIE–Singapore, 2013). These regular resignations have resulted in an aura of stagnation regarding the development of education plans and reforms in Kuwait.



*Figure 1.* Ministers of Education in Kuwait spanning the years from 2007 to 2017 (Council of Ministers, 2017).

Educators have complained about many of the decisions that have been made at the top levels of the MoE. They describe these “reforms” as random, improvised and sporadic, and that they cause educational instability while also putting too much pressure on the teachers, students, and parents who have to negotiate a system of continually changing standards (Al-Saleh, 2014). The situation is very stressful for those struggling to keep up with new policies, especially as significant educational policies are often abandoned within a few years, or even months on occasion. One such seemingly random, but significant change included a brand new method for grading student work in secondary schools; it was instituted and then discarded within months. The MoE can often apply policy on a whim, without any apparent consideration for its potential impact, only for the new measure to fail once it arrives in the field. An example of such a situation involves one proposal which aimed to remove the burden of heavy school bags from students by replacing their books with electronic copies on flash drives. After thousands of these memory sticks were issued, the MoE withdrew the initiative as a failure that needed further testing... after just a single semester (Al-Saleh, 2014). The result of all these flash-in-the-pan programs is mass confusion, and the MoE losing credibility with those under its purview... added to this is the profligate misuse of precious time and assets.

Winokur (2014) argued that policymakers in Kuwait depend heavily upon ministerial choices, along with advice from international organizations such as the United Nations, World Bank, and the Organization for Economic Cooperation and Development (OECD), to inform their policy decisions and determine processes for implementing change. The Vision Kuwait 2030 report by Tony Blair Associates states, “The MoE appears to conduct very little educational research as a tool to inform policy development ... As a result, education policy development is rarely based on domestically generated knowledge” (Tony Blair Associates, 2009, p. 221). Such research is necessary, not only to track the development of Kuwait’s educational system, or explore existing and alternative institutions and practices, but also to challenge control over the schools.

Although Kuwait has a strong commitment to educate its citizenry, and spends vast sums upon their instruction -- which recently totaled 1.7 billion KD (approx. US\$ 5.6 billion), or 9.5 % of the State’s budget -- evidence suggests that the education system is relatively poor in quality and does not produce high-level outcomes (Al-Kandari, 2013; Central Intelligence Agency [CIA], 2017; Winokur, 2014). According to the Global Competitiveness Report of 2015-2016, the quality of education has declined in Kuwait, and now ranks just 66th of 140 countries (World Economic Forum, 2015). The report also showed that basic education quality has declined in 14 categories, and that Kuwait came in last in a Gulf Cooperation Council assessment which stated that the Trends in International Mathematics and Science Study (TIMSS) examination placed Kuwait at 47th in a list of 53 participating countries. Kuwait also placed 46th out of 50 countries taking part in the Progress in International Reading Literacy Study (PIRLS).

Considering all of the evidence, it is becoming apparent that the lack of a comprehensive system of education-related laws in Kuwait may be a root cause of the deficits underlined so far; deficits that are limiting the country’s ability to develop its citizens, and society as a whole, through the education system. As mentioned earlier, well designed and implemented education law enables a country to provide quality education, in a stable and orderly manner, while also protecting the rights of all education stakeholders (Alexander, 2015). It is therefore surprising that so few attempts have been made to conduct empirical research on education-related laws in Kuwait (e.g. Al-Mahboub, Al-Enazi, Al-Thufairi, & Bu-Farsn, 2013; Al-Temimi, 2015). The literature is particularly limited in terms of describing research that specifically addresses the process and influences that affect the formation and implementation of education-related laws.

In this regard, Walt and Gilson (1994) provided a policy analysis framework to understand all the different factors that may affect educational legislation and policies. This framework accommodates the analysis of, (a) the context that influences educational legislation and policies; (b) the processes by which educational legislation and policies were initiated, formatted, developed, implemented and evaluated; and (c) the actors involved in the decision-making process surrounding educational laws and policies. Consequently, this interpretive, qualitative study argues that there is a need to examine the context, process, and actors whom influence the education-related laws in Kuwait. By doing so, we can more fully understand the current state of these laws, and therefore determine whether they are sufficient, or if new legislation is required to better achieve the education system's goals

### **Justification for the Study**

Educational law is a vital component of the legal system that will ensure the realization of its intrinsic objectives and help maintain the rights, duties and obligations of all stakeholders within the education sector (Johnson & Redfield, 2015). Educational law appears to be a crucial area for exploration in Kuwait in order to help motivate both the state and its people towards building an effective and harmonious education system.

The justification for the present study is reflected in both research and planned future practice. With respect to this study, it represents the first research on Kuwait concerned exclusively with the state's educational laws. In this regard, this study intends to clarify the nature of existing education-related laws that govern Kuwait's education system by addressing their characteristics and flaws. Additionally, study findings may open new doors for future investigations regarding education-related laws and legislation as well as their implementation in Kuwait.

In terms of future practice, the results of this study attempt to provide Kuwaiti educators and policymakers with clear information needed to help them understand the process and influences that affect the formation and implementation of education-related laws. Finally, the findings of this study could well assist current and future policymakers in making more effective laws and regulations that organize and monitor the educational system in Kuwait.

### **Research Purpose & Questions**

The purpose of this study is to explore the education-related laws adopted by the Kuwait National Assembly since 1963 in light of the broader context of educational law. This study is aimed at identifying the nature and extent of existing education-related laws. In addition, this study investigated the process and influences that affect the formation and implementation of education-related laws. Finally, this research identified areas for improvement. For the purposes of this study, there is a central question followed by four sub-questions. The study's central question was: "How do Kuwaiti official influencers interpret education-related laws?". The four associated sub-questions were:

1. What perceptions do Kuwaiti official influencers have concerning the nature and extent of the nation's existing, education-related laws?
2. What insights can Kuwaiti official influencers provide regarding the process of forming and implementing education-related laws?
3. What thoughts do Kuwaiti official influencers have about the relevant actors and their roles in education-related laws?
4. What viewpoints can Kuwaiti official influencers share with respect to areas of education-related law which require improvement?

### **Study Delimitations & Limitations**

At the onset of analysis, it is important to keep in mind that it is difficult to compare educational law systems between countries, because these systems vary according to their diversity in social and legal structure (Alexander et al., 2016). However, the focus of this study is examining the education-related laws adopted by the Kuwait National Assembly since 1963 which help govern the nation's K-12 public education. The legislation, administrative policies and regulations which focus on Kuwaiti private and higher education are beyond the scope of this study.

Moreover, there are some limitations related to the methods used in this study. First, the design for this study was based on the use of qualitative methods. The researcher conducted semi-structured interviews with Kuwaiti official influencers to collect data using non-probability sampling. This type of sampling does not give every element in the population a chance to be selected, meaning there is the likelihood that some members of the wider population will be

included and others will be excluded, and this selection will be in accordance with the research aims (Blaikie, 2000). As such, the conclusions drawn from this study are difficult to generalize. However, this method helps the researcher create rich descriptions of the social sphere surrounding education-related laws. This is seen to be of value (Denzin & Lincoln, 2011), because it helps provide an indepth understanding of the existing, education-related laws, as well as their formation and implementation processes, which are more important than simple generalizations (Creswell, 2014).

Finally, the process of translating the perceptions of interviewees from Arabic to English presented challenge, as it involves working across cultures and communicating concepts in Arabic which are not always expressed easily in English. This issue is discussed in the methodology chapter.

### **Definition of Key Terms**

According to the publication manual of the American Psychological Association (APA) a formal definition consists of three parts (APA, 2010): (a) the term (word or phrase) to be defined; (b) the class of object or concept to which the term belongs; and (c) the differentiating characteristics that distinguish it from all others in its class. Based on such criteria, this study includes some terms that need defining pursuant to its purpose:

***Educational Law/ School Law*** is a portion of the larger body of law that comprises all statutes, regulations, by-laws, policies, administrative decisions which establish and control the management of schools, school systems, and other education institutions and programs (Imber et al., 2013; Proudfoot & Hutchings, 1988; Sperry, 1998). The terms educational law and school law can be used interchangeably, although for the purpose of this study, the term educational law will be used exclusively.

***Education-related Laws in Kuwait*** for the purpose of this study, education-related laws in Kuwait include all laws and statutes that have been adopted by the Kuwait National Assembly since 1963 in the forms of Constitutional statements, Amiri decrees and legislation related to K-12 public education.

***Legislation/ Statute*** is an act of a legislative body or a state legislature, and constitutes the law of the state that implements regulations or guidelines written by officials in the agencies responsible for their execution and enforcement (Russo, Osborne, & Allan, 2013). In the context

of Kuwait, legislation is a bill passed by the Amir and the Kuwait National Assembly that enacts the country's laws.

**Decree** is a rule of law usually issued by a head of state (such as the President or the Amir) according to certain procedures and has the force of law (Russo et al., 2013). In the context of Kuwait, a decree is a law passed by the Amir under specific circumstances, such as during the dissolution of the National Assembly (Kuwait Constitution, 1962).

**Kuwaiti Official Influencer** includes policymakers who had prior experience in dealing with, developing, or implementing education-related laws in Kuwait. More specifically, three distinct groups of official influencers were identified as participants: (a) parliamentary members; (b) ex-Ministers of education; and (c) directors of general education.

**Stakeholders** includes anyone who is invested in the welfare and success of a school and its students, including administrators, teachers, staff members, students, parents, families, and community members. In a word, stakeholders have a "stake" in the school and its students, meaning that they have personal, professional, civic, or financial interest or concern.

**Process** is the way in which education related laws are initiated, developed or formulated, negotiated, communicated, implemented and evaluated.

**Actors** refer to individuals, organizations or the state, and their actions that affect the education-related legal process.

### Chapter Summary

As an introduction to this study, six topics are presented in this chapter which include the following: (a) the statement of the problem; (b) the importance of the study; (c) the purpose of the research and its questions; (d) the delimitation and limitations of the study; (e) the definitions and terms used in this document; and (f) the chapter summary. In Chapter II, a review of the relevant literature is detailed.



## CHAPTER II

### REVIEW OF THE LITERATURE

This review intends to provide comprehensive understanding of Kuwait's education-related laws within the broader context of general and educational law. It has been divided into three main sections: (a) educational law; (b) the education-related laws in Kuwait; and (c) future challenges to Kuwait's education system. This chapter provides background to better understand the entirety of this study.

Before going further in this review, it is worthwhile mentioning the three main purposes of a literature review, as described by Marshall and Rossman (2011) they are: (a) to provide evidence that the study has potential significance for practice and policy, and that it is likely to contribute to the ongoing discourse on the topic; (b) to demonstrate the underlying assumptions behind the general research questions; and (c) to identify gaps in previous research. These elements constitute the building blocks for a conceptual framework. Therefore, the main purpose of the literature review in this study is to sharpen the preliminary considerations regarding the topic, method, and data source (Yin, 2015).

Leedy and Ormord (2012) posed a question asking how researchers know when they have completed their review of the academic literature? According to the authors, a common rule of thumb for knowing when a literature search is near completion is when one discovers that new articles under review only seem to introduce familiar arguments, methods, findings, and studies, etc. rather than anything novel for the reader. Also, when researchers no longer encounter new arguments in their search of available literature, (i.e., they see the same key authors and studies cited over and over again), then they are likely as familiar as is practical with the critical issues relevant to their study. This same strategy was applied in preparing this review.

#### **Educational Law**

A sufficiently educated populace is key to the future growth of any nation, which is why fostering a strong educational system is such an important responsibility for any government. Furthermore, a number of subsequent treaties, conducted under the auspices of the United Nations Educational Scientific and Cultural Organization (UNESCO), reaffirm the tenet that universal access to education is a fundamental human right, and these include the *Convention Against Discrimination in Education* (1960), *The International Covenant on Economic, Social*

*and Cultural Rights* (1966) and *The Convention on the Elimination of All Forms of Discrimination Against Women* (1981). Essentially these global agreements declare that each nation should provide its children with basic, compulsory education, free-of-charge. They must also develop a secondary education system in which all children may participate, as well as an equitably accessible tertiary education platform (Oyedeji, 2012).

For the state, education is a tool for its political, social, economic and technological development. Whereas for the individual, education involves the balanced development of cognitive, affective and psychomotor domains in order to prepare them for future challenges (Thomas et al., 2009). On the other hand, educational systems are mainly guided, controlled and evaluated by policy, legislation, and governance (Alam et al., 2010). These guiding principles are considered under the rubric of educational law, which is a vital component of the legal system that will ensure the realization of systemic objectives, and maintains the rights, duties and obligations of the stakeholders (Johnson & Redfield, 2015).

### **Educational Law: Definition & Sources**

Scholarly interest in educational law has grown during the last decade (Alexander, 2015; Dayton, 2012; Johnson & Redfield, 2015; Joubert & Prinsloo, 2009; Mawdsley et al., 2013; Oyedeji, 2012; Russo et al., 2013; Thomas et al., 2009). Alexander and Alexander (2001) provided an expanded definition of educational law as “a generic term covering a wide range of legal subject matter including the basic fields of contracts, property, torts, Constitutional law, and other areas of law that directly affect the educational and administrative processes of the educational system” (p.1). In the same vein, Peretomode (1992) defined educational law as areas of jurisprudence which focus on educational activities, the operation of public and private elementary, secondary and post-secondary institutions of learning. Consistent with these definitions, educational law can be defined as a portion of the larger body of law that comprises all statutes, regulations, by-laws, policies, administrative decisions that establish and control the management of schools, school systems, and other educational institutions and programs (Imber et al., 2013; Proudfoot & Hutchings, 1988; Sperry, 1998).

The area of educational law, according to Lexis Nexis (2017), encompasses issues relating to the school faculty, staff, and students, including school discipline, and discrimination based on race, national origin, sex or disability in violation of the Equal Educational

Opportunities Act. In other words, educational law ensures the rights of all stakeholders and provide a framework for most of the educator's decisions (Brien, 2004; Kerrigan, 1987). Several scholars have tried to provide practical guides for understanding the legal aspects of the school system (Essex, 2013; Joubert & Prinsloo, 2009; Thomas et al., 2009). These practical guides are intended to help educators understand the laws that govern important issues such as student rights, compulsory attendance, pupil suspension and expulsion, discipline, child abuse, personal appearance, academic testing and grading, drug testing, search and seizure, freedom of speech, publications, records, religious observances and the rights of teachers.

With regards to educational law, most countries have their own systems. These laws vary from country to country and, as they evolve, disputes arise that are settled by their particular society (social norms) and particular legal structure (Constitution, court system and administrative agencies). Although, each nation's legal system is different, most of the sources for educational law come from a country's Constitution, statutes, judicial decisions, and administrative law as per the following authorities: (Alexander & Alexander, 2001; Joubert & Prinsloo, 2009; Russo & Osborne, 2013):

- ***Constitution:*** A Constitution is a body of precepts that sets out the rules for running the country, protecting democratic principles, and protecting the right of citizens. It is essentially a national blueprint.
- ***Statute:*** A statute is an act of government expressing legislative edicts and constituting State Law. Parliament is an example of a political organ that the State uses which, in turn, passes legislation on a national level.
- ***Judicial Decisions (Case law):*** Every Constitutional, Appeals, High or Supreme Court ruling directly applicable to education helps to form the basis for future case law in education-related matters. In some countries, such as the U.S., the decisions taken by higher courts must be followed by lower courts (judicial precedent). However, *Common Law* can be considered as a legal principle in some cases. It is a body of general rules prescribing normal social conduct. It is not enacted by Parliament, but arises through custom and historical developments. Common Law can be found in the works of ancient writers, including legal opinions and rulings from as far back as Roman times. Examples of legal concepts derived from common law are reasonableness, fairness, negligence, powers, legal status and natural.

- **Administrative law:** Administrative Law constitutes those rules and regulations promulgated by the government administrative agencies which are part of the executive branch. It is considered a branch of public law and is often referred to as regulatory law.

Fuller (1969) identified eight characteristics which a good legal system should have. These characteristics are also applicable to the formulation of effective educational law. They are: (a) general rules of conduct; (b) publication of the laws sufficient to subject them to public criticism; (c) minimum reliance on retroactive laws; (d) clear laws and a clear standard of decision, that is, a minimum of obscurity, incoherence and vagueness; (e) as few contradictory laws as possible; (f) laws that the citizenry is capable of obeying; (g) law which is stable, though flexible enough to stay relevant over time; and (h) conformity with official action and declared rule.

### **Educational Law: Importance & Knowledge**

Laws and legal structures are extremely important to all societies. Shoop and Dunklee (1992) identified that the function of the law, in general, is to regulate human conduct in order to ensure a harmonious society. They further deduced that laws are based on the foundation that for each action there follows an expected consequence. Thus, the law is intended to promote social order, while supporting societal goals and improvement. In this respect, educational law is seen as an important subset of a country's body of law and, upon implementation within a society, orders that society's educational system. The literature highlights that having a comprehensive system of educational law plays an important role in establishing standards, maintaining order, resolving disputes, protecting liberties and rights, and overall, in providing quality education (Alam et al., 2010; Alexander, 2015; Johnson & Redfield, 2015).

Although there is an abundance of writing on educational law, there appears to be a gap in the literature describing exactly how educational law affects the daily practice of educators. Much of the current literature on educational law emanates from the U.S., but other countries (e.g., Australia, Canada, South Africa) are beginning to develop significant bodies of literature as well (Mawdsley & Cumming, 2008). The existing literature, especially from the U.S., is highly preoccupied with litigation. For example, Redfield (2003) claimed that in the U.S., "[i]n 1960,

the educational law reporters published some 300 suits with schools named as parties; in 1970, it was 700; and by 2000, it was over 1800” (p. 614). Furthermore, Findlay (2007) observed that,

Litigation in public education has been increasing in recent years in the United States and in Canada. Current research suggests that school administrators, and educators in general, should gain more knowledge about educational law in order to minimize their own legal liability and to prevent potential legal problems in their schools. (p. 1)

Taylor (2001) avers that, in the twenty-first century, this vast amount of legal action requires educators to possess a basic understanding of the laws that impact them and the concerns that frequently arise in educational law. Thus, educators must be well versed in their knowledge of legal issues impacting the operation of schools. While educational law is evolving to meet the demands of society and the needs of schools, just how well educators are keeping themselves informed about relevant legal issues is questionable (Kerrigan, 1987; Leschied, Dickinson, & Lewis, 2000; Redfield, 2003; Shariff, 2004).

Based on the researcher’s findings, an important point was revealed -- the knowledge of educational law is directly related to effective leadership, management, accountability, and administrative professionalism (Findlay, 2007). Findlay (2007) argued that knowledge of educational law provides a valuable framework and guide for educators. He noted that educators should know the law as it applies to education in order to be aware of their own rights and responsibilities, and to be able to act confidently when making decisions. Furthermore, Findlay verified that knowledge of educational law is vital to an educator’s success, which, in turn, factors into helping provide a quality education for students. For the same reasons, Keel (1998) suggested that knowledge of the law is “the guarantor of successful school administration” (p. 172) and that without it, administrators may err in their decision-making. Therein, a solid foundation of relevant legal knowledge relating to education is an essential aspect of and educator’s accountability to students, staff, and community.

In a comprehensive study of a school principal’s legal knowledge, Doctor (2013) suggested that principals may have a larger responsibility than other professionals to understand the legal process, as well as the substantive requirements of certain landmark decisions and their effects on school policies. An awareness and understanding of the law, therefore, is part of the professional knowledge required for administrators. Several studies (e.g., Brabrand, 2003; Findlay, 2007; Leschied et al., 2000; Peters & Montgomerie, 1998; Stewart, 1996) have been

conducted to determine the level of educational law knowledge possessed by school principals. The best of these studies concluded that principals may not be the best source of legal information for their vice-principals or staff.

David Schimmel (1975), a longtime scholar of educational law, asserted over 30 years ago regarding an educator's legal knowledge that... "teachers need to develop a greater understanding of their rights and those of their students. Without this understanding, ... they will fail in their mission to develop respect for the law among their students" (p. 10). Gajda (2008) then pointed out that teacher training programs often do not prepare teachers to understand the relationship of the Constitution, statutes, and judicial decisions to the daily process of delivering instruction and providing supervision.

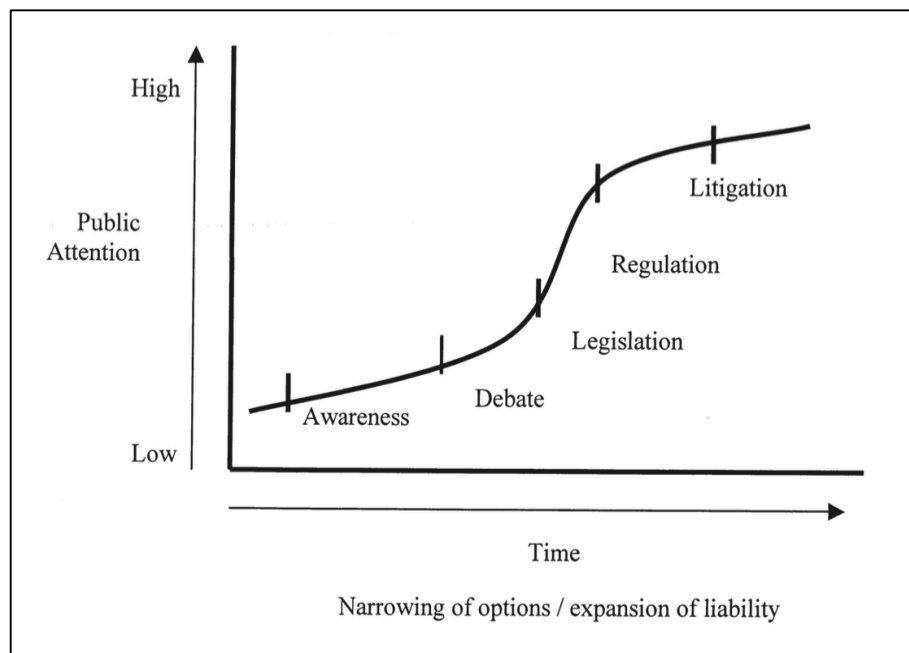
Recent attention has focused on the legal literacy of educators, especially school administrators. Legal literacy refers to an educator's knowledge level with respect to educational law, and how it affects the governance of their schools (Doctor, 2013; McCarthy, Cambron-McCabe, & Eckes, 2013). Sperry (1998) states that there are at least three tasks an educator must fulfill to gain and maintain a minimal working understanding of the law: (a) educators must complete an introductory course on school law at a local university; (b) educators must become acquainted with the state educational codes and the state laws in which they are practicing; and (c) educators should also become familiar with the rules and regulations of their school board.

### **Educational Law: Formation & Implementation**

Designing an educational law is not a matter of a concerted application of effort; it is an evolutionary process which progresses over time. Several studies examine the formation of educational law through the lens of public policy, demonstrating that the universality of problems encourages the necessity for establishing a law (Arbogast, 2000; Eyler et al., 2010; Findlay, 2007; Mashau & Mutshaeni, 2013; Mawdsley, & Cumming, 2008; Ndou, 2015). In this regard, Kingdon's Streams Theory is considered one of the most influential in the formation of public policy (Walt et al., 2008). It argues that a "policy window" opens only when three independent streams - 'the problem', 'the policy' and 'the politics' - converge, and thus propel governments to act. The 'problems stream' contains the broader problems facing society. The 'policy stream' refers to the set of policy alternatives that researchers and other stakeholders propose. The 'politics stream' consists of political transitions, national mood, elections, or

pressure from interest groups (Kingdon, 1984). According to Streams Theory, the key to enacting educational laws is understanding how the education problem is identified as a policy problem and placed on the legislative agenda.

In other words, policy problems can be described as legal issues which often reveal themselves as social issues concerning justice, equity, and equality. Heck (2004) argued that an issue becomes a problem only when groups disagree about the steps required to eliminate or resolve the issue. In the same context, Green (1989) suggested that a legal issue has a life cycle that often begins with societal expectations created through awareness and public debate. If the issue receives the attention of government, it then develops in the political arena and becomes the subject of legislation. Once legislation is passed, regulations soon follow (see Figure 2). Disagreements about the implementation of the promulgated legislation and regulations may also result in litigation (Janosik, 2005).



*Figure 2.* The life cycle of a legal issue (Janosik, 2005).

The process of creating a new educational law can be summarized as follows (Alam et al., 2010; Alexander, 2015; Heck, 2004):

1. Generate a debate in the specific area of educational law concerned.
2. Engage in extensive consultation to examine the strengths and weaknesses of existing

- policies, legislation, rules and regulations, as well as informal and formal governing processes.
3. Initiate rigorous discussion to understand where various educational bodies, controlling agencies, directorates, boards, and institutions have failed and/or succeeded in this area.
  4. Government then passes laws or statutes that become the foundation of education.
  5. Laws are followed by governmental regulations, which must be enacted by legislative or administrative bodies.

Regarding the implementation stage, the law plays a crucial part in the process of transitioning from the ideal into a practical reality. However, it is common for a ‘gap’ to appear between what was planned and what actually occurs as a result of implementing the law (Heck, 2004). According to Firestone (1989), the educational law implementation process is one in which... “legislative acts must be interpreted and enforced by the executive branch, further specified by district and building administrators, and finally carried out in some way by teachers in classrooms” (p. 18). Studies have indicated that there are two primary theoretical models for policy implementation (Jann & Wegrich, 2007; Sabatier, 1986): 1) the top-down theory which focuses on policy design and centrally-managed factors; and 2) the bottom-up theory, which argues that policy flows upwards from the lower-level target groups and service deliverables.

In a study investigating the development of anti-bullying legislation in the U.S., Weaver, Brown, Weddle, and Aalsma (2013) evaluated anti-bullying legislation from 47 states. Researchers used the method of content analysis to identify each state’s inclusion of protective factors within laws for youths, parents, and schools. They found that although the majority of states had anti-bullying legislation, clear guidelines for school officials were often lacking. The study also emphasized the importance of providing sufficient guidelines in forming and implementing laws. In the same vein, Ndou (2015) stressed the importance of knowledge and accountability in the implementation process. Ndou conducted a qualitative study examining the implementation of education policies in public schools in South Africa. The study revealed that knowledge of the education policies is a pre-requisite for the implementation of such policies for quality education. Furthermore, the study found that the absence of a policy enforcement agency and a lack of coordination between different levels of provincial education management led to unresolved cases of misconduct and non-compliance with education policies.



## Educational Law: Actors

A wide variety of political, economic, and social actors have been responsible for shifting the initiative in educational law formation and implementation. According to Birkland (2015), there are two broad categories of actors in the policy making process for forming and implementing policy: official and unofficial actors. The following are the official and unofficial actors likely to influencing educational laws (Birkland, 2015; Fowler, 2012; POPOOLA, 2016; Rizvi & Lingard, 2009):

**1) Official actors:** These actors are involved because their responsibilities are sanctioned by laws and, therefore, they have the power to make and enforce policies through the legislative, executive, and judicial branches:

- **Legislative Branch:** The legislative branch is made up of parliamentary members whose task it is to place laws into action. While the legislature, as a body, has a significant role with respect to education policy, it is often individual members who have the greatest impact. A number of studies have been conducted in U.S. regarding influence variables and their affect upon the education-related legislative decision processes. For instance, Canfield-Davis and Jain (2010) found specific ‘factors of influence’ which swayed policy decisions in the eyes of both onlookers and legislators themselves. Their data came from their own observations and interviews, from civic records and archives, as well as audio recordings of legislative meetings. They discovered that policy proposals were affected by many variables, both intended and unintended, not to mention the many vagaries of differing personal political agendas, on their journeys to becoming laws. Interestingly, they also found that trust between the various parties involved with the bill’s passage became the fundamental basis for whether it succeeded in becoming law or not.
- **Executive Branch:** The executive branch is headed by the nation’s top politician, such as a prime minister or president, and includes the many personnel who assist them with running that office, from special advisors to senior political aides to interns. The executive branch also incorporates the politically-appointed leaders of the various government-run institutions, and their immediate deputies as well. The executive branch is primarily focussed upon applying civic and foreign policy and administering the various government-run institutions under their control. While the

executive branch usually has less influence over education policy than the legislature, which has considerable impact, a highly motivated member of the executive branch with a specific zeal for education policy can precipitate considerable change.

- **Judicial Branch:** The judiciary is composed of judges and their respective courts. Judges have the responsibility of applying the Constitution and laws of the land to whatever legal dispute is set before their bench. Because the judiciary is the ultimate arbiter regarding the Constitutionality, or lack thereof, of any particular law or policy, it can have a great impact upon the policymaking process. Ideally the judiciary is designed to apply the law as fairly and apolitically as possible, but they are still political figures with the ability to modify, redirect or moderate policy, which always has some level of political bias, no matter how carefully it is crafted. The judiciary also has the ultimate authority to strike down any law or statute if they judge it to be unconstitutional.

2) **Unofficial actors:** These actors include those who play roles in the policy process without any explicit legal authority over participants such as, ‘political parties’, ‘interest groups’, ‘international organizations’, and ‘the media’. Indeed, these actors are involved because they have important interests to protect and promote:

- **Political Parties:** Are formally organized associations of politicians, bureaucrats and members of the public who share a similar political outlook and purpose. A political party’s fundamental goal is to win enough positions of power within government or government infrastructure such that it has the ability to influence, or even control, the decisions of State to more closely reflect the party’s own political agenda. A political party in power has the ability to affect every avenue of daily life from their positions on healthcare, to national defense, to education, etc..
- **Interest Groups:** Interest groups are comprised of people, organizations and even corporations who associate together through the shared bond of specific common interests that they wish to protect or enforce via their own mutual support. For instance, the Kuwait Teachers Association is an interest group that focuses on the needs of educators in Kuwait. Interest groups seek to influence politicians and public policy towards their own ends, rather than obtain direct power. Birkland (2015) noted that they accomplish this by making policy demands, or suggesting courses of action

aligned with their cause(s). They regularly support their demands with corroborating data which they perceive, or even manipulate, to correlate with their own particular perspectives. They sometimes air their arguments in the public arena in an attempt to amplify the impact of their ideas, whether right or wrong, with momentum from a suitably agitated populace. Such tactics can often play an effective role in swaying government positions, meaning that policymakers must generally pay attention to interest groups, especially the more powerful ones.

- ***International Organizations:*** Form an important constituent of the globalized network, and the flow of evidence-based policy which influences educational actors. The quality of national educational systems is increasingly being compared internationally (Marginson & Wende, 2007). Therefore, international organizations have played a huge role by offering educational programs and being the largest aid providers in reforming education in the developing world. Altbach and Knight (2007) argued that the motivations for international organizations include commercial advantage, knowledge and language acquisition, and curriculum enhancement with international content. For example, the UN has four agencies that support education: UNESCO, the World Bank, United Nations Children's Fund (UNICEF), and the United Nations development programs (UNESCO, 2007).
- ***The Media:*** The term media covers a wide range of publicly aired information sources, whether it be that of a multinational news organization broadcasting via print, television, radio and online or a lowly individual with a large voice on a social media platform such as Facebook. The media, by mobilizing the public with the information it provides, can place a huge amount of pressure on policy makers and politicians, who have a vested interest in keeping a close eye on public opinion trends. This can be for good or ill, depending upon if the media is providing the public (and therein the government) with sound and accurate facts. The media can also be a tool for the government to provide the public with news of their decisions or other information as well, though not always for mutually beneficial purposes.

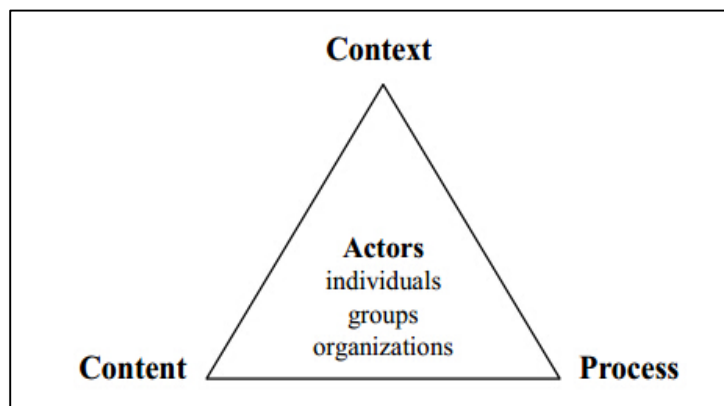
## **Educational Law: Evaluation**

Merely having educational laws is often not enough for establishing or maintaining an effective education system. The quality of the statutes, policies, and regulations in the education arena is also important. Ideally, educational laws are evaluated to determine whether they work as originally intended. Several studies have revealed that the basis of evaluating legislation in general, and education legislation in particular, was derived from the policy sciences framework (Eyler et al., 2010; Jacobson et al., 1993; Mitchell, 1988; Rivlin, 1984). Dimensions of the framework include: (a) the social process, which directs attention to the stakeholders perspectives and the situations in which they interact, as well as the base values and strategies they employ to shape value outcomes; (b) problem orientation, which focuses on the rules enforced against challengers in particular contingencies; and (c) the decision process, which is comprised of the intellectual tasks of clarifying goals, describing trends, analyzing conditions, projecting developments, and inventing, evaluating, and selecting alternatives. Hence, in order to participate in the improvement of decisions for any policy context, such as education policy, the conceptual models of ‘social process’, ‘problem orientation’, and ‘decision process’ should be considered.

According to Fowler (2012), policy analysis is one way to evaluate and improve the quality of public policies such as education policy. He pointed out that,

[i]t is based on the well-founded premises that the policy process is not fully rational and that politicians, if left to themselves, often develop unsound policies. An indisputable strength of policy analysis is that it offers everyone who is interested in policy a variety of frameworks they can use in thinking about it. (p. 56)

Walt and Gilson (1994) suggested a simplified approach for policy analysis. They presented the complex set of interrelationships in policy analysis in a triangle framework. They proposed the policy triangle as a way of systematically thinking about all the different factors that may affect policy (see Figure 3). Education policies are formed through the complex interrelationship of context, process, actors, and content (El-Jardali, Bou-Karroum, Ataya, El-Ghali, & Hammoud, 2014). The framework accommodates the analysis of the contextual factors - social, economic, political and international - that influence the policy and the process by which the policy was initiated, formulated, developed, implemented and evaluated, as well as the objectives of the policy and the actors involved in the decision-making.



*Figure 3.* Walt and Gilson Policy Analysis Triangle framework (Walt & Gilson, 1994).

Overall, a key consideration in the development and passage of legislation is whether a particular statute is based on scientific evidence. Eyler et al. (2010) stresses that using the best evidence available, and systematically collecting data, will allow legislatures to understand that evidence-based legislation is the best way of ensuring new laws are likely to produce optimal results.

### **Education-Related Laws in Kuwait**

This section will provide an understanding of Kuwait's education-related laws within the context of the country's legal system. It begins with a brief introduction about the nation and the general structure of its legal system. Then a description of the educational system in Kuwait is provided. Finally, themes relevant to the concept of education-related laws in Kuwait are discussed.

#### **Kuwait: An Overview**

Kuwait is located in the Middle East between Iraq and Saudi Arabia and borders the Arabian Gulf. It is a small country; its area is only 17,818 sq. km. (CIA, 2017). According to the CIA, in June 2017, the country had a population of 4,509,388, with just 1,364,103 being of registered Kuwaiti origin. Essentially, Kuwaitis remain a minority in their own country. The official religion of Kuwait is Islam. Non-Muslims who live in Kuwait are, however, free to practice their own religions within the law. The primary language is Arabic, with English being an unofficial second language.

In terms of its economy, Kuwait, like other Arab Gulf countries, is an oil-producer, relying heavily upon oil as the dominant segment of its economy. It has the fifth-largest known oil reserves in the world, which means it owns 9% of the current total (CIA, 2017). It is an extremely wealthy nation, with no recorded poverty among Kuwaiti nationals. Despite the global economic crisis, Kuwait's oil-based economy has continued to do well (Kamal, 2013). The government of Kuwait is now looking for alternative ways to stimulate employment and generate income. With this in mind, it is keen to diversify and improve the skills of its labor force; hence, it gives high priority to the reform of education at all levels.

### **Kuwait: Legal System**

In 1961, the defense treaty with the United Kingdom was canceled, and Kuwait became a fully independent country. In 1962, the Kuwait Constitution was approved and promulgated to facilitate the foundation of the first National Assembly. Kuwait's first National Assembly was elected in 1963. The main roles of the National Assembly are to protect the Constitution, to monitor government performance, and to enact the country's laws. The Constitution is based on democratic principles and combines the positive aspects of both presidential and parliamentary systems prevalent in advanced, democratic nations (Al-Jazzaf, 2012).

Article 1 of the Constitution of Kuwait (1962, p.11) states, "Kuwait is an Arab, independent and fully sovereign country. Neither its sovereignty, nor any part of its territory may be relinquished; the people of Kuwait are a part of the Arab Nation." The Constitution is composed of 183 articles and divided into five parts (Kuwait Constitution, 1962): (a) the state and the system of government; (b) fundamental constituents of the Kuwaiti society; (c) public rights and duties; (d) powers, and; (e) general and transitional provisions. Indeed, these articles stipulate that justice, liberty, and equality are the pillars of the society. The State safeguards these pillars and ensures the security, tranquility and equal opportunities for citizens (Khedr, 2016). According to Article 2, the religion in Kuwait, as indicated earlier, is Islam, and Islamic Shari'ah (Islamic law) is the main source of legislation.

In Kuwait, as prescribed by the Constitution, the system of government is based upon the separation of powers, although cooperation is required by the underlying tenets of the Constitution (Khedr, 2016). Authorities in Kuwait are divided into the legislative, executive and judiciary bodies and the Amir is the head of these authorities as shown in Figure 4.

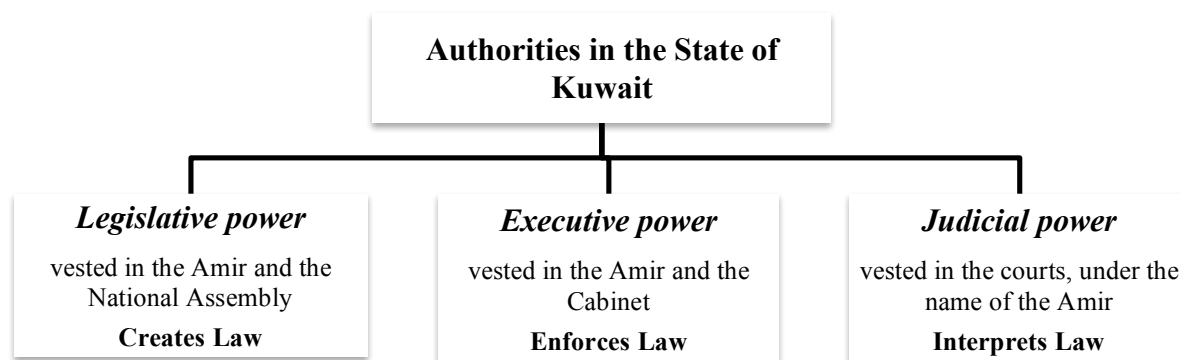


Figure 4. Authorities in the State of Kuwait (Khedr, 2016).

More specifically, the powers of the Amir as the Head of the State are as follows. He: (a) exercises power through his Ministers, and appoints, and may dismiss, the Prime Minister; (b) is the Commander-in-Chief of the Armed Forces, and he appoints and dismisses officers in accordance with the law; (c) issues implementing regulations to give effect to laws, and regulations necessary for the organization of public services and administrative bodies in the State; and (d) appoints civil and military officials and political representatives to other States. The authorities in Kuwait are discussed in detail with the following:

**1) Legislative power:** Under Article 51 of the Constitution, legislative power is vested in the Amir and the National Assembly, which enacts the country's laws. The Kuwait National Assembly has 65 members, including 50 legislature (parliamentary members) who are elected to four-year terms of office and 15 Cabinet Ministers appointed by the Amir.

Khedr (2016) explains that the three primary functions of the National Assembly are: (a) to debate policies and government programs, and pass laws; (b) to question Ministers and, if necessary, issue a vote of no confidence regarding individual members of government; and (c) to set up a special committee to deal with petitions and complaints submitted by parliamentary members and citizens.

Among its annual standing committees, the Assembly also sets up a special committee to deal with petitions and complaints submitted by citizens. The National Assembly has ten different committees. The committees are as follows: (a) the Committee on Petitions and Complaints; (b) the Committee on Interior Affairs and Defense; (c) the Committee on Financial and Economic Affairs; (d) the Committee on Legislative and Legal Affairs; (c) the Committee on

Affairs of Education, Culture and Guidance (CACG); (f) the Committee on Health, Social Affairs and Labour; (g) the Committee on Foreign Affairs; (h) the Committee on Public Utilities; (i) the Committee on Protection of Public Funds; and (j) the Committee on Defense of Human Rights. (Kuwait National Assembly, 2011)

In term of creating laws, the Assembly makes laws by passing bills, which become statutes or legislation. This process is long and complicated and can be summarized by the following (Kuwait National Assembly, 2011):

1. A Cabinet Minister or parliamentary member decides that a new draft law is necessary.
2. Experts draft a bill and then introduce it to Parliament. It is then referred to a committee in the Parliament for consideration.
3. A Committee meets, studies and discusses the bill in detail, and makes changes, if necessary.
4. When the Committee has finished its work, the bill goes to the National Assembly for debate by all parliamentary members.
5. If the National Assembly confirms a bill by a two-thirds majority vote, the Amir promulgates the bill as law.

**2) Executive power:** Executive power is vested in the Amir and also the Cabinet, which has control over State departments and agencies, formulates the general policy of the government, oversees its implementation, and supervises the performance of work in governmental administrative bodies (Kuwait Constitution, 1962). Each Minister supervises the affairs of his ministry and carries out the general policy of the government; the Minister also formulates directives for his ministry and ensures that they are implemented.

The Prime Minister and the Cabinet Ministers are empowered by the Amir to create the administrative regulations for the implementation of various laws. Thus, there is no separate administrative body (Kuwait National Assembly, 2011). The Amir also has the power to issue regulations according to Article 72 of the Kuwait Constitution. Indeed, regulations are administered in the form of a decrees from the Amir. While the National Assembly is not in session or is dissolved, the Amir may issue decrees in respect thereof, which have the force of law (International Business Publications, 2015).



**3) Judicial power:** Judicial power is vested in the courts, which exercise it in the name of the Amir (Kuwait Constitution, 1962). The courts decide whether or not the law has been broken, and if it has, what punishment to impose. The independence of the judiciary is guaranteed by the Constitution and by law. In other words, the underlying principle is that the honor of the judiciary, and the integrity and impartiality of judges, are the foundation of the State and a guarantee of rights and freedoms (Khedr, 2016). In administering justice, judges are not subject to any outside authority. The Amir, after recommendation of the Justice Ministry, appoints judges.

The Court system in Kuwait is divided into six main divisions: Family, Criminal, Civil, Commercial, Leases and Administrative. There are three levels of courts for the purpose of litigation: The Court of First Instance, the Higher Court of Appeal and the Court of Cassation. A separate division of the court system is the Constitutional Court to review and repeal any unconstitutional laws (Khedr, 2016). The legal system of Kuwait is an amalgam of British common law, French civil law, Islamic legal principles, and Egyptian law. This system is comprised of the Civil Code, the Commercial Code, the Penal Code, and the Code of Criminal Procedure, contained in Law No. 17 of 1960.

However, there are two separate systems of law in Kuwait. The first system is based upon Sharia, or Islamic law emanating from the Qur'an. The Sharia courts handle family and personal matters, and these laws are rarely codified. In the second civil law system, the Court of First Instance handles civil and commercial matters, as well as some criminal cases. In general, judgments from this Court can be appealed. However, there are some instances where the Court's judgment is final, or can be appealed only before an appellate body composed of judges from the Court. Most appeals from the Court of First Instance take place at the Higher Court of Appeal.

### **Kuwait: Educational System**

As in most nations, Kuwait believes that a sound education is fundamental to the development of a society and its individuals. The educational system in Kuwait is designed in line with the nature of Kuwaiti society, philosophy, and expectations, and in a way that suits contemporary cultural values and norms (Al-Duwaila, 2012). Therefore, culture, religion, and Kuwaiti identity have been the most significant factors in building the educational system. Thus,

the academic and educational processes in Kuwait aim to offer suitable opportunities for developing individuals spiritually, intellectually, socially and physically in accordance with their abilities and readiness (MoE, 2008).

In more specific terms, the educational system in Kuwait focuses on ensuring a balance between individual self-actualization and constructive participation in the building of Kuwaiti society as a whole (Al-Kandari, 2013). This sufficiency is achieved by providing individuals with the fundamental qualifications they require in order to meet the needs of society, as well as their own expectations and ambitions. Accordingly, the MoE set the long-term goals of education in Kuwait to be as follows (MoE, 2008):

- To expand and develop the school system to prepare Kuwaiti children to become active members of society.
- To follow scientific progress in the field of education; creating stronger links between schools and the greater society
- To prepare curricula that safeguards Kuwaiti society, while also advancing scientific and technical progress.

Of course, these goals cannot possibly be realized without the appropriate Constitutional concepts, laws, statutes and regulations in place to ensure a proper and safe educational environment (Alexander et al., 2016).

### **Kuwait: Education-Related Laws Frameworks**

As the State of Kuwait evolved, various laws and decrees with bearing on education were adopted before the promulgation of the present Constitution. In 1955 a report on education known as the Matti-‘Aqrawi report was published. It set forth the general principles relating to human rights, including: (a) elimination of illiteracy; (b) promotion of democracy; (c) establishing common compulsory education; and (d) giving citizens the opportunity to complete their education (UN, 2010). It is clear from the report that the right to education is inextricably bound up with the principle of justice and equal opportunity, and that particular emphasis is placed on basic education.

In 1962, the Constitution of Kuwait laid out the general legal framework concerning the country’s education. Since 1963, the Kuwait National Assembly adapted several laws impacting education in the form of legislation and decrees. Within the National Assembly, Committee on

Affairs of Education, Culture and Guidance is responsible to review all bills suggested by the government or proposed by the parliamentary members in issues related to education from kindergarten through higher education. This Committee consists of five members and a supporting staff of lawyers who work as its legal council. The members of the CACG appointed in their position according to voting process. In the beginning of each session, the parliamentary members volunteer to be in the CACG. At this time, the other parliamentary members vote and chose the five members for the CACG.

In view of all that has been mentioned, education-related laws in Kuwait include all Constitutional statements, statutes, administrative policies and regulations that establish and control the management of schools, school systems, and other educational institutions. Unfortunately, only minimal academic research literature exists on education-related laws in Kuwait. The literature is particularly limited in terms of research that specifically addresses the nature of the education-related laws that organize and monitor the educational system in Kuwait. One study similar to this researcher's efforts was conducted by Al-Qalaf, Al-Rewashed, Kader (2006). It analyzed the laws and legislation related to education from the perspective of parliamentary members and leaders in the MoE. They noted that there is a need for cooperation between the CACG members and the MoE. They also recommended that the parliament has a vital role to play in raising the quality of education through enacting new education legislation.

In an analysis of the CACG practices, Al-Mahboub et al., (2013) reviewed the CACG reports from 2009-2012 and found that most of the Committee reports concentrated on financial responsibilities such as building and repairing schools, and issues related to school administration, staff, and curricula. The study also showed that there is a need for consultants and education experts to evaluate decisions made by the Committee. Moreover, the researcher conducted semi-structured interviews with parliamentary members working in the CACG. The findings show that there is a lack of coordination between policymakers and stakeholders, and a need to use different sources, such as research results, for developing education-related laws.

In the same context Al-Enize (2010) verified that parliamentary accountability has a significant impact on the performance of the Ministers of Education. The study used a descriptive analysis method to analyze the minutes of the meetings of the parliament in the area of education. The study concluded that the content of the interrogations provided by the parliament to the Ministers of Education is related to waste of public funds, poor application of

laws and regulations, and the attack on the values of society. The study found that many new laws and administrative decisions were established to solve these problems. In all the studies reviewed here, CACG practices were the main topic of interest, however, identification of the content within the education-related laws is still limited. According to an official documents review, the following is a description of the Constitutional, legislative, and administration framework for the education-related laws in Kuwait focusing on K-12 education.

**The constitutional framework of the educational system in Kuwait.** Education is a legal right for Kuwaitis. Article 40 of the Constitution outlines the right of every Kuwaiti citizen to obtain an education. Education is not just a privilege (Al-Muhareb, 2007). Article 40 also highlights the nation's commitment to eradicating illiteracy. The text reads,

Education is a right for Kuwaitis, guaranteed by the State in accordance with law and within the limits of public policy and morals. Education in its preliminary stages is compulsory and free in accordance with the law, the law lays down the necessary plan to eliminate illiteracy, and the State devotes particular care to the physical, moral, and mental development of the youth. (Kuwait Constitution, 1962, p. 18)

Based upon that unambiguous declaration, Kuwait makes Constitutional guarantees for the right to education that provide the highest possible level of protection, by enshrining this right in the legal codes of the State. As such, the right to education is inextricably bound up with the principles of justice and equal opportunity. Particular emphasis is placed on basic education, as explained in Articles 7 and 8 of the Constitution. Based on Article 9, family is seen as the cornerstone of society, and the State must care about protecting this institution and all that it represents. In terms of education's importance to society, Article 13 of the Constitution states... "Education is a fundamental requisite for the progress of society, assured and promoted by the State" (Kuwait Constitution, 1962, p. 14). Furthermore, Article 10 of the Constitution emphasizes that the State has protective duties regarding the morals and the physical and spiritual well-being of its young. Article 14 continues by saying that, "The State shall promote science, letters, and the arts and encourage scientific research therein." (Kuwait Constitution, 1962, p. 14). It is clear, therefore, that the State has a clearly established commitment to provide education and to promote the arts and sciences as well.

In addition, Article 29 addresses the importance of equality and the absence of discrimination, stating that, “All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language, or religion.” (Kuwait Constitution, 1962, p. 16). In total, it seems that the Constitution put great emphasis on educating Kuwaiti citizens and made it one of the most important State responsibilities. Table 2 is a summary of the Constitutional statements related to education in Kuwait.

Table 2

*Summary of the Constitutional Statements Related to Education in Kuwait*

<b>Article</b>	<b>Focus Area</b>	<b>Description</b>
Article 7	State Goals	Justice, Liberty, and Equality are the pillars of society; co-operation and mutual help are the firmest bonds between citizens.
Article 8	Guardian State	The State safeguards the pillars of Society and ensures security, tranquility, and equal opportunities for citizens.
Article 9	Family	The family is the cornerstone of Society. It is founded on religion, morality, and patriotism. Law shall preserve the integrity of the family, strengthen its ties, and protect under its support motherhood and childhood.
Article 10	Youth Protection	The State cares for the young and protects them from exploitation and from moral, physical, and spiritual neglect.
Article 13	Education	Education is a fundamental requisite for the progress of society, assured and promoted by the State.
Article 14	Science, Arts	The State shall promote science, letters, and the arts and encourage scientific research therein.
Article 29	Equality	All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language, or religion
Article 40	Compulsory & Free Education	Education is a right for Kuwaitis, guaranteed by the State in accordance with law and within the limits of public policy and morals. Education in its preliminary stages is compulsory and free in accordance with the law.  The law lays down the necessary plan to eliminate illiteracy.  The State devotes particular care to the physical, moral, and mental development of the youth.

According to Table 2, several Constitutional articles are related directly and indirectly to education. These articles come from two parts of the constitution: (a) The basic foundations of Kuwait's society (State goals, guardian state, family, youth protection, education, science and arts), and (b) public rights and obligations (equality and absence of discrimination, compulsory free education). It is clear that only Articles 13 and 40 of the Constitution explicitly include the word 'education'. Articles 7, 8, 9, 10, 14, and 29 influence education indirectly. They were used by legislators to create education-related laws. The role of these six statements is specifically intended to provide the atmosphere of justice, equality and freedom as embodied within the law.

**The legislative framework of the educational system in Kuwait.** After the Constitution of Kuwait laid out the general legal framework concerning the country's education system, the Kuwait National Assembly enacted education-related laws in the form of legislation and express decrees. In order to review all of the legislative documents affecting education, a legislative database on the Kuwait National Assembly website was used. This database provides the ability to search within all of the legal documents passed by the National Assembly since 1963 using different criteria, such as the year the document was issued, the type of document (legislation, bills, decrees), and the topic covered (education, health, economy). Furthermore, for the purpose of this review, keywords were used to find documents related to K-12 education (such as: education, teachers, schools, educator, and curriculum). These key words were searched individually or in association with each other. Overall, only eight appropriate, education-related laws were chosen to be included in this review as outlined below:

*1) Compulsory Education Law No. 11 of 1965 (Kuwait National Assembly, 2017).* In 1951, UNESCO sponsored a series of monographs on compulsory education around the globe. The organization assumed that all UN members agreed on the general principle concerning the necessity of providing a system of compulsory, free universal education (Al-Musailim, 1987). Kuwait became a member of UNESCO in 1960, and adopted the Compulsory Education Law in 1965.

According to Article 1 of the Compulsory Education Law:

Education shall be compulsory and free for all male and female Kuwaiti children from the beginning of the primary stage until the end of the intermediate stage. The State undertakes to provide school premises, books, teachers and any other human or material resources, which guarantee the success of education. (p. 1)

Accordingly, education is free for all Kuwaiti children, and the government is responsible for facilities, books, teachers and any other necessary items. Additionally, Articles 2, 3 and 4 of the Compulsory Law confirm that the period of mandatory education lasts for eight years and applies to children aged from 6 to 14 years old. In 2003, Kuwait extended the upper age limit to include children up to 15 years old. Parents are legally responsible for enrolling their children in primary school as soon as they reach the age of six. Normally, a pupil cannot be dismissed or leave school before they are 15. However, a child may be discharged from compulsory education if he/she becomes seriously ill or physically impaired to such a degree that they cannot regularly attend special education schools or equivalent establishments made available by the MoE for the disabled. Children whose homes are two kilometers or more from the nearest school are also exempted from compulsory education in cases where either the parents or MoE are unable to provide transportation.

Articles 8, 9, 10, and 11 of the Compulsory Law are devoted to implementation and enforcement. The MoE and the Office of the Registrar General are responsible for the education of children aged from 6 to 15. The MoE should inform parents who have a child within this age bracket to make sure they attend school. School Principals can notify the Ministry, if they don't receive a response from a child's parents within two weeks. Article 10 of the law mandates that parents who refuse to enroll their children in school at the age of six will receive a fine. The financial penalty for non-compliance is 10 Kuwaiti Dinar (approx. US\$33) or up to a week in prison. Law No. 49 in 1994 raised the fine to 200 KD (approx. US\$660). Finally, Articles 12, 13, and 14 of the law make the MoE responsible for providing school buildings, all necessary equipment, and other resources. According to statistics from 2008, the primary school enrollment percentage for females was 87% and 89% for males. These numbers dropped to 80% for females and 77% for males for children at intermediate school (UNICEF, 2011).

Nevertheless, one problem with the recent Compulsory Education Law is that it only applies to children who are Kuwaiti citizens, rather than all children in the State as a whole. As mentioned previously, Kuwait's total population in 2017 is roughly 4.5 million people, with 70% being foreign residents (CIA, 2017). Non-Kuwaiti children are admitted into State-run schools only if places are available, or to satisfy political considerations. This includes children of a Kuwaiti mother married to a non-Kuwaiti, children who are citizens of countries within the Gulf Cooperation Council, children of foreign diplomats, children of non-Kuwaiti prisoners of war

and martyrs, children of employees in public schools including science lab technicians and librarians (Al-Temimi, 2015). Some non-Kuwaiti children attend private school of course.

Unfortunately, this means that some children will be denied equal education opportunity as a result of their nationality or status. In 2013-2014, for instance, the number of non-Kuwaiti children of school-age was 45,880 (22,344 males, 23,536 females). Only 12.7% of that number were enrolled in government schools, which had a total of 362,933 students. The other 87.3% were either in a private school or not in school at all (MoE, 2017). The Committee on the Rights of the Child, UNESCO, expressed its concern at the situation of non-Kuwaiti children in the country, and recommended that the State take suitable measures to protect the rights of stateless Bedouin and migrant children who do not have Kuwaiti citizenship (International Labor Organization, 2016). Considering all of this evidence, the failure to provide free compulsory education for such a large section of the population represents a major violation of the principle of human rights and strongly conflicts with the nation's commitment to universal education (Al-Nakib, 2012; Al-Temimi, 2015).

**2) *Legislative Decree of 1979 regarding the Ministry of Education (Kuwait National Assambly, 2017)***. This decree was set up through the Amir. Article 1 of the decree defines the Ministry's role as the development of Kuwaiti society, and the upbringing of its young within an integrated scientific, spiritual, moral, intellectual, social and physical framework. They were tasked with meeting this objective in light of the principles of Islam, Arab heritage, and contemporary civilization in keeping with the national environment, its progress and development. Article 2 of the same decree defined the functions of the MoE in administering education (up to the secondary level) and instructed the Ministry to undertake all that is necessary for its management and development.

**3) *Legislative Decree No. 4, 1981 concerning the Eradication of Illiteracy (Kuwait National Assambly, 2017)***. In 1981, the Kuwait National Assembly approved the Law of Eradication of Illiteracy. The law included twenty-three articles. Articles 1, 2 and 3 of the law state that the eradication of illiteracy was a national responsibility and defined an illiterate as one who failed to reach a certain specified level in reading and writing. It then became mandatory for all Kuwaiti males aged 14-40 and all Kuwaiti females under age 35 who worked in government sectors to achieve a sufficient level of literacy.

Article 4 of the Illiteracy Law defined the work and authority of the Higher Committee



for the Eradication of Illiteracy, headed by the Minister of Education. Article 5 of the law applied to all government organizations, companies, and private sectors, and made them responsible for taking this law into consideration. Article 10 of the law applied to every illiterate Kuwaiti citizen, all of whom were required to enroll at the nearest illiteracy center within 60 days of its initial operation. Article 18, 19 and 20 of the Illiteracy Law dealt with enforcement. An illiterate student who does not enroll at an illiteracy center will be fined 100 KD (approx.US\$330). An illiterate student who is absent from class more than 25 % of the time will be fined 50 KD (approx.US\$165). The owners of private enterprises must apply this law to their workers who are illiterate by enrolling them at an illiteracy center or be fined themselves. Article 21 states that the MoE is responsible for implementing the law regarding the eradication of illiteracy. Statistics from 2015 show the literacy rates for the total population in Kuwait aged 15 and over is 96.3% (male 96.5%, female 95.8%) (CIA, 2017).

**4) *Legislative Decree No. 4 of 1987 concerning Public Education (Kuwait National Assembly, 2017)***. In 1980, the UNESCO Commission reported, “Kuwait has not yet enacted a public education law, which could strengthen the philosophies and policies. It is recommended that such a law be written, reviewed and revised as necessary, and adopted in its most acceptable and workable form.” (Al-Musailim, 1987, p. 102). Accordingly, the MoE prepared a draft of the public education law, which was submitted for approval in 1984. The Legislative Decree concerning Public Education was approved in 1987, and can be considered the first piece of legislation providing the general legal framework for public education (education up to the end of the secondary level). While all previous legislation focused upon regulating one particular aspect of the education system, this law stressed Constitutional principles governing education in the State of Kuwait. Foremost among these principles is that all citizens have a right to an education. Articles 2, 3, and 4 of this decree define that the role of education is to protect and develop the young, and to ensure social progress, they also mandate that education is to be provided in government schools free-of-charge to all citizens. The legislative decree concerning public education is divided into seven chapters: 1) educational goals, 2) educational administration, 3) the Supreme Council of Education, 4) educational supervision, 5) admission system, 6) curriculum system, and 7) student evaluation and academic testing.

According to Article 5 of the decree concerning public education, the law stipulated the establishment of the Supreme Council of Education which was to be chaired by the Minister of

Education and composed of the Under-Secretary, President of the University and 17 members from the educational community. This council is essential to set official policies and avoid duplication of effort or the waste of material resources. Articles 12 and 13 illustrated that education is divided into three stages: primary, intermediate, and secondary. The period of education is twelve years, distributed equally between the three stages of education. The Minister is authorized to integrate, reduce or redistribute these years after the Committee's approval.

In early 2003 the Kuwaiti MoE asked the International Bureau of Education -UNESCO to provide technical assistance to reform the education system. One of their recommendations was to change the education model from the previous 4+4+4 standard to a new 5+4+3 ideal. In this way, the compulsory education limit was extended from 8 to 9 years. The International Bureau of Education is of the view that it is important to emphasize the necessity of linking the minimum employment age of 16 to the age limit for compulsory education (15 years old). If the two ages do not coincide various problems may arise. If compulsory schooling comes to an end before the young persons are legally entitled to work, there may be a period of enforced idleness (Winokur, 2014). Accordingly, a Ministerial Decree No. 76 of 2003 provided for a new educational ladder consisting of five years of primary education, four years of intermediate education and three years of secondary education free-of-charge. The new structure was implemented in the 2004-2005 academic year, and extended the duration of compulsory education from eight to nine years (i.e. primary and intermediate education).

In addition, the school year in Kuwait consists of 168 working days at the primary level, and 151 days at the intermediate and secondary levels. However, a report published in 2007 by the International Bank for Reconstruction and Development, a branch of the World Bank, reports that Kuwaiti students spent 50 fewer hours per year in school than the average student in OECD member countries (Winokur, 2014).

**5) *Legislative Decree No. 308 of 2006 regarding the National Center for Education Development (Kuwait National Assembly, 2017).*** In order to develop education in Kuwait based upon a scientific method, the National Center for Education Development (NCED) was set up through Amir Decree No.308 in 2006. Article 3 described that the Center's role is to undertake national education development projects with the help of experts and Kuwait's vision, while taking into account the experiences of more developed countries, in order to achieve optimal results objectively and impartially. According to Article 4, the center is divided into three

departments: (a) teacher development; (b) measurement and evaluation; (c) curriculum development.

In 2015, the MoE, NCED, and World Bank launched a five-year technical cooperation agreement focused on education reforms. The program which will support capacity building, improve the quality of the teaching and learning, and monitor its impact on schools and students builds upon earlier work that focused on systemic education improvement. Furthermore, the NCED is taking some noteworthy steps in order to deliver advances in education. For example, as part of a quality assurance program, the NCED is working to require educators in public and private schools hold professional teacher's licenses to ensure that only qualified and committed individuals can become teachers (MoE, 2017).

**6) *Law No. 8 of 2010 concerning Rights of Individuals with Disabilities (Kuwait National Assambly, 2017)***. Article 1 in this law defined that a person with a disability is someone who suffers from permanent, partial or total disorders that leave them with physical, mental, or sensory impediments that may prevent them from being able to work, or participate fully and effectively in society on an equal basis with others (Rights of Individuals with Disabilities Law, 2010). The law emphasizes the inclusion of individuals with disabilities at various educational levels through the use of suitable training materials and curriculum adaptations, as well as making the community aware of the rights for people with disabilities. The law also supports the equal rights for individuals with disabilities to obtain a free and appropriate education (Al-Hilawani, Koch, & Braaten, 2008; Al-Jazzaf, 2012; Al-Muhareb, 2007; Al-Moosa, Storey & Keller, 2012).

Al-Hilawani (2011) noted the positive and radical changes in services introduced for people with disabilities to improve their quality of life and education. He observed that this law addresses more demanding issues, such as preparing qualified personnel to meet the needs of individuals with disabilities and to implement the philosophy of inclusion in educational and non-educational settings. However, he argued that the law was not strictly implemented and thus it did not bring the necessary changes, due to its lack of a guarantee for judicial procedures even though it has served and provided the legal help needed to protect the rights of individuals with disabilities in Kuwait.

**7) Law No. 28 of 2011 concerning Granting of Allowances and Bonuses to the Members of the Ministry of Education (Kuwait National Assambly, 2017).** This law described how members of the educational body can receive a career level bonus, a supervisory allowance for supervision and guidance functions, and incentive awards. Article 2 demonstrated that the educational body 200 KD (approx.US\$660) awards to qualified personnel when they achieve a master's degree and 400 KD (approx.US\$1,320) for a doctoral degree. Moreover, Article 3 mentions that the bonus for personnel who receive top performance ratings has been adjusted to 1500 KD (approx. US\$4,965) per year. According to Article 5 the members of the Kuwaiti educational body grant an award equivalent to one and a half times their annual salary after serving 30 years (for males) and 25 years (for females). According to this law the remuneration of the career level, supervision, orientation, and incentive pay allowance shall take the salary rule into full or reduced effect accordingly.

**8) Law No. 21 of 2015 concerning Children's Rights (Kuwait National Assambly, 2017).** Kuwait has ratified many conventions on children's rights, the most significant being the *Convention on the Rights of the Child* (1989) and its two protocols, which became part of Law No. 21 in 2015. This law includes 97 articles that provide for the comprehensive protection of children, including those who are disabled, in all aspects such as health, social, educational, cultural and legal. In terms of educating children, Article 38 provides that Law No. 11 of 1965 concerning Compulsory Education shall rule in situations not covered in the 2015 document. Article 87 prohibits the distribution of publications in any media form with content for children that incites their sexual instincts or encourages them to engage in immoral behavior.

Moreover, Article 94 notes that punishment shall be doubled for any crime against a child, if committed by one of the parents, guardians, or anyone responsible for observing, raising or authorized to care for the child, or any maid working for the aforementioned caregivers of the child. On the protection of disabled children, Articles 57 to 64 provide state protection for any disabled child against any act that can harm their health, or their physical, mental, spiritual or social growth. Disabled children shall have the right to education and vocational training in the same schools, institutions and training centers available for children without disabilities. In special cases, the State shall provide education and training in special classes, schools, institutions or training centers, provided that such venues are connected to the compulsory

education systems for children without disability, and will attend to the proper needs of disabled children.

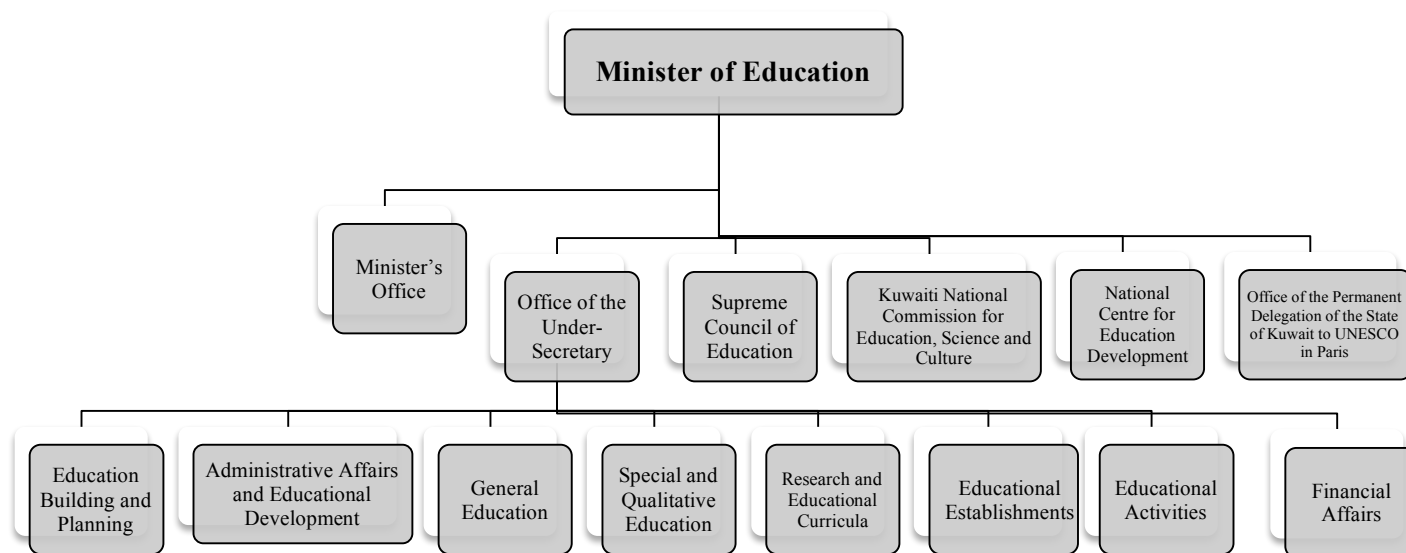
In summary, over the course of the 54 years since the establishment of the National Assembly, up until the time of this study, there were eight main laws established which have affected the educational system in Kuwait. Six of these laws are directly related to education in all its provisions, and they include the following topics: Compulsory Education, MoE, Literacy, Public Education, NCED, and Granting of Allowances and Bonuses to the Members of the Ministry of Education. Furthermore, two laws were passed that are indirectly related to education. These include the rights of disabled children and children's rights in general. Table 3 provides a summary of education-related legislation in Kuwait from 1963 to 2017.

Table 3

*Summary of the Education- Related Laws in Kuwait from 1963 to 2017.*

Name of the Legislation	Compulsory Education Law	Ministry of Education Law	Eradication of Illiteracy Law	Public Education Law	National Center for Education Development Law	Rights of Individuals with Disabilities Law	Granting of Allowances and Bonuses to the Members of the MoE Law	Children's' Right Law
<b>Type of Legislation</b>	Law	Decree	Decree	Decree	Decree	Law	Law	Law
<b>Adapted on</b>	1965	1979	1981	1987	2006	2010	2011	2015
<b>Number of Articles</b>	15	3	23	20	10	72	10	79
<b>Relevant Constitutional Articles</b>	40	40	40	10, 13, 40	13, 14, 40	8, 13, 40	7,8	9, 10, 40
<b>Main Topics</b>	<ul style="list-style-type: none"> <li>➤ Right to education</li> <li>➤ Compulsory education</li> <li>➤ Free education</li> <li>➤ Provide human and material resources</li> <li>➤ Punishments and fine</li> <li>➤ MoE responsibility</li> </ul>	<ul style="list-style-type: none"> <li>➤ Academic Scholarship</li> <li>➤ School activity</li> <li>➤ Eradication of illiteracy</li> <li>➤ Adult education</li> <li>➤ Technical, religious, and art institutes</li> <li>➤ Supervising private education</li> <li>➤ Sport, scientific, and culture affairs</li> </ul>	<ul style="list-style-type: none"> <li>➤ Definition of illiteracy</li> <li>➤ Punishments</li> <li>➤ Guideline for implementations</li> </ul>	<ul style="list-style-type: none"> <li>➤ Educational goals</li> <li>➤ Educational administration</li> <li>➤ The Supreme Council of Education</li> <li>➤ Educational supervision</li> <li>➤ Admission system</li> <li>➤ Curriculum</li> <li>➤ Student evaluation and academic testing</li> </ul>	<ul style="list-style-type: none"> <li>➤ Establishing the NCED</li> <li>➤ Teacher development</li> <li>➤ Measuring and evaluation</li> <li>➤ Curriculum development.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Educational assessment</li> <li>➤ Placement options</li> <li>➤ Definitions of terminology</li> <li>➤ Emphasizes a full inclusion model</li> </ul>	<ul style="list-style-type: none"> <li>➤ Teacher grants</li> <li>➤ Qualification rewards</li> <li>➤ Teacher professional development grants</li> </ul>	<ul style="list-style-type: none"> <li>➤ Health</li> <li>➤ Social</li> <li>➤ Education</li> <li>➤ Cultural</li> <li>➤ Legal</li> </ul>
<b>Amending Text (s)</b>	<ul style="list-style-type: none"> <li>➤ Law No. 49 of 1994 mandating Compulsory Education Law (increased the punishment)</li> <li>➤ Law No. 25 of 2014 (rename the MoE and describe the role of the privet schools in compulsory attendance)</li> </ul>	-	-	-	-	<ul style="list-style-type: none"> <li>➤ Law No. 8 of 2016 (related to learning disability and parent's responsibility)</li> </ul>	-	-
<b>Target /Audience</b>	<ul style="list-style-type: none"> <li>➤ All male and female Kuwaiti children</li> </ul>	<ul style="list-style-type: none"> <li>➤ Educational administration</li> </ul>	<ul style="list-style-type: none"> <li>➤ All Kuwaitis males aged 14-40 and all Kuwaiti females who work in government sectors and are under the age of 35</li> </ul>	<ul style="list-style-type: none"> <li>➤ Educational administration</li> <li>➤ Teacher</li> <li>➤ Student</li> <li>➤ Curriculum</li> </ul>	<ul style="list-style-type: none"> <li>➤ Teacher</li> <li>➤ Student</li> <li>➤ Curriculum</li> </ul>	<ul style="list-style-type: none"> <li>➤ Individuals with Disabilities</li> </ul>	<ul style="list-style-type: none"> <li>➤ Teachers</li> </ul>	<ul style="list-style-type: none"> <li>➤ Children under age 18</li> </ul>
<b>Main Funds</b>	MoE budget	MoE budget	MoE budget	MoE budget	MoE budget / grants	State budget	State budget	State budget

**The administrative framework of the educational system in Kuwait.** Kuwait maintains an education system jointly administered by two main governmental bodies that are responsible for the formation and implementation of general education policies and regulations. These two bodies are: (a) The MoE, supervising the private and public sectors of education through secondary school; and (b) The Ministry of Higher Education, responsible for higher education beyond secondary school or its equivalent and supervises the University of Kuwait and the Public Authority for Applied Education and Training. The organizational structure of the MoE consists of the Minister's Office, Office of the Under-Secretary, Supreme Council of Education, the Kuwaiti National Commission for Education, Science and Culture, Office of the Permanent Delegation of the State of Kuwait to UNESCO in Paris, and National Centre for Education Development as shown in Figure 5.



*Figure 5.* The organizational structure of the MoE (MoE, 2017).

The Office of the Under-Secretary consists of eight major sections, each of which is headed by an Assistant Under-Secretary as per the following: Education Building and Planning, Administrative Affairs and Educational Development, General Education, Special and Qualitative Education, Research and Educational Curricula, Educational Establishments, Financial Affairs, and Educational Activities (MoE, 2017). The K-12 educational system is

divided into three levels. The primary level is from grades one through five; the intermediate level is from grades six through nine; and the secondary level is from grades ten through twelve.

There are six administrative districts in Kuwait: Al-Asema, Al-Farwaniya, Al-Jahra, Hawalli, Al-Ahmadi, and Mubarak Al-Kabeer. Within each district, the Ministry established a branch that would serve to manage the schools. The districts are managed between centralized and decentralized elements within the educational administration: The centralized mechanisms assume responsibility for planning, supervising, and controlling the development of education, while the decentralized mechanisms (the administrations of education zones) implement executive directives in their schools, and supervise and assess performance (Al-Kandari, 2013).

In his mixed-method study, Al-Kandari (2013) identified seven issues associated with strategic education planning in Kuwait which are all affected by the centralization policy: the efficiency, effectiveness, and comprehensive nature of the strategic plan, its ability to be implemented, collaboration and participation in a communicative capacity, the bureaucratization, and the work environment. Furthermore, the study found that the centralization policy, which is embedded in both the formulation and the implementation of the strategic plan, is an obstacle to the strategic plan's effectiveness. Additionally, the study identified a relationship between the weaknesses of the strategic plan and the MoE officials' practices as ultimate decision makers.

### **Kuwait Educational System Future Challenges**

Kuwait, at the turn of the new millennium, has witnessed changes in the labour market and social conditions, both of which have led to another perspective on education—its utilitarian aspect. To illustrate, Kuwait has been influenced by the concept of globalization and has promoted educational discourse about human capital and economic development. Therefore, through the MoE, Kuwait's government established its vision for the future of education from 2005 to 2025 by focusing on preparing students for the labour market, a vision approved by the Minister's Council. The vision consists of six key goals of the public educational strategic plan for the State of Kuwait as described in the following (MoE, 2009):

- To interact with the current environment without obstructing the privacy of community culture, through free-thinking and cooperation with dynamic changes.
- To confirm beliefs in the importance of dialogue and respect for the human rights of students in order to provide a strong base for democracy.



- To support economic growth without negatively affecting the environment or national resources.
- To confirm the essential requirements of curricula for schools in the general education system and to ensure the achievement of national goals.
- To achieve strategic requirements by bringing about institutional reform in all general learning sectors.
- To bring the current general education system and the requirements of advanced technology closer together.

In light of this strategy, the MoE has prepared a number of important projects and begun its implementation through improving the necessary infrastructure, such as: providing classes with modern technology and communication networks within schools; qualifying teachers to work with new technology and to use modern teaching methods; developing curricula, and taking advantage of e-learning (MoE, 2009). Much of the current literature pays close attention to the fact that Kuwait's MoE has relied heavily upon UNESCO reports for developing its own education policy (Al-Nakib, 2012; Al-Temimi, 2015, Winokur, 2014). This demonstrates the powerful impact that UNESCO has had upon Kuwaiti education policy.

Furthermore, the World Bank has played an important role in the Kuwaiti education system through its counsel and recommendations. Moreover, the MoE uses TIMSS and PISA to test the mathematics, science, and reading achievement of Kuwaiti students, and compares their achievement to others on a global level (Winokur, 2014; World Bank, 2008). To this point, the new Kuwaiti education policies regarding curriculum, testing, English teaching, life skills, technology, and work skills are reforms and policy responses to the pressures and discourses of globalization and various international organizations.

### **Chapter Summary**

Three major topics were presented in this chapter: (a) educational law, (b) the education-related laws in Kuwait, and (c) future challenges for the Kuwaiti educational system. These three topics represent the contextual background of the problem, and the theoretical background of the major themes in this study. Chapter III will detail the method used in this study.

## **CHAPTER III METHODOLOGY**

The methods and procedures used in this study are presented in this chapter. The chapter is divided into the following sections: (a) restatement of the research questions; (b) research approach; (c) research design; (d) the researcher's role; (e) a description of the study participants; (f) data collection procedures; (g) data analysis procedures; (h) authenticity and trustworthiness; and (i) ethical considerations.

### **Restatement of Research Questions**

This study examines how Kuwaiti official influencers interpret education-related laws. The research sub-questions are:

1. What perceptions do Kuwaiti official influencers have concerning the nature and extent of the nation's existing, education-related laws?
2. What insights can Kuwaiti official influencers provide regarding the process of forming and implementing education-related laws?
3. What thoughts do Kuwaiti official influencers have about the relevant actors and their roles in education-related laws?
4. What viewpoints can Kuwaiti official influencers share with respect to areas of education-related law which require improvement?

### **Research Approach**

A research approach is a plan which specifies the procedures for research that spans the steps from broad assumptions to detailed methods of data collection, analysis, and interpretation (Creswell, 2014). Research in the fields of education and the social sciences is generally based on one of three research approaches: qualitative; quantitative; or mixed methods. According to Creswell (2014) four distinct paradigms (post-positivist, constructivism, transformative, and pragmatism), point out the ideology behind the adoption of using these three approaches. Each paradigm reflects the worldviews shaping the direction of the research and builds the framework toward knowledge.

Based on the nature of the research problem and the purpose of this study, a constructivist paradigm was judged suitable for this study in considering specific assumptions. Marshall and

Rossmann (2011) identified several assumptions in discussing constructivism: (a) human beings construct meanings as they engage with the world they are interpreting; (b) researchers seek to understand the context of the participants by gathering information personally, and interpret what they find according to their experiences and background; and (c) the basic generation of meaning is always social, arising through interaction with a human community. In light of consonance with research themes and objectives, these were the assumptions considered in this study.

The constructivist paradigm helps in understanding the participant's actions, feelings, ideas, and thoughts (Denzin & Lincoln, 2011). Hence, participants hold subjective interpretations of their experiences, directed toward certain objects or things. This paradigm guides researchers to be subjective in their analysis in order to understand the actual situation. Therefore, the researcher needs to look for the complexity in the views of insiders in order to gain a deep understanding of their subject (Creswell, 2014; Thomas, 2013). Indeed, this paradigm is typically seen as an approach to qualitative research. Understanding of education-related laws in Kuwait is more effectively undertaken via inquiry into the perceptions, recollections and personal views of those involved in a phenomenon. Therefore, a qualitative research approach has been selected for use in this investigation.

Denzin and Lincoln (2011) describe qualitative research as involving "... an interpretive approach to the world, meaning qualitative researchers attempt to rationalize or interpret phenomena in terms of the meanings people bring to them." (p. 3). Similarly, Marshall and Rossman (2011) described qualitative research as enacted in the natural world, rather focusing on context, emergent rather than tightly prefigured, and fundamentally interpretive. They also describe the qualitative researcher as: (a) engaging in systemic reflection on the conduct of the research; (b) viewing social phenomena holistically; (c) sensitive to personal biography and how it shapes the study; (d) and using complex reasoning that is multifaceted and iterative.

The focus of qualitative research is to understand a situation as it is constructed by the participants and to record what people say and do. This means that the task for the qualitative researcher is to capture this process of interpretation. Blaikie (2000) argued that qualitative methods focus on the production of discursive descriptions and exploring the behavior of social actor's meanings and interpretations. Blaikie's argument shows that the qualitative approach is interested in describing and exploring, so it uses words to reach its aims, explain issues and to understand the world. In this regard, the qualitative style helps researchers to understand answers

with ‘How’ and ‘What’ questions, as is the case in this study. In accordance with the discussion above, a qualitative approach will be employed in this study.

### **Research Design**

Research design is a type of inquiry that provides specific direction for procedures in a research project. It is the logical blueprint that links the research questions, the data to be collected, and the strategies for analyzing the data; it also helps strengthen the validity of a study, including its accuracy (Yin, 2015). Qualitative methodologists have described different types of inquiry by which to conduct qualitative research (Marshall & Rossman, 2011). One of the approaches that focuses on an individual’s lived experience is phenomenology. Educational studies are an area of human experience in which the phenomenological approach is an effective way to represent participants’ experiences (Creswell, 2014).

More specifically, the phenomenological, across-case data approach is founded on the analysis of significant statements, the generation of meaning units, and the development of essence description to depict the lived experiences of individuals about a phenomenon as characterized by participants (Creswell, 2014). In other words, phenomenology studies human events as they are immediately experienced in real-world settings, resisting prior categories and concepts that might distort the experiential basis for understanding the events (Yin, 2015). This design has strong philosophical underpinnings and typically involves conducting interviews, as used in this study.

### **Researcher’s Role**

In a qualitative study, it is also important to include reflections upon the researcher’s identity and sense of voice and perspectives, assumptions, biases, sensitivities, and any expectations or experiences which may influence the research (Marshall & Rossman, 2011). This will help the reader of the final report to understand more about the researcher’s role. In this vein, it is important to note that perceptions about education in general, and education- related laws in particular, have been shaped by my personal and professional experiences.

I graduated from the College of Education and worked as a high school biology teacher for six years. As a teacher, I had the opportunity to work with students, parents, and other instructors. As a member of the Kuwaiti Teachers Association, I was involved in many activities

and decisions, and worked closely with fellow teachers from other districts, officers from the MoE, and officers from international organizations such as UNESCO. I continued my studies and earned a master's degree in Consolidated Education (the path of educational administration) from Kuwait University in 2013. What I learned while earning my master's degree increased my interest in the educational process, and all aspects of scientific research, through my involvement with working papers in scientific conferences and workshops. As a result, I received a scholarship, sponsored by Kuwait University, to pursue a doctorate in Education Leadership and Policy Studies with a special focus on educational law in the United States of America.

During my graduate coursework, I discovered that educational law is a critical field that Kuwait must explore more thoroughly to better orient the State, and its society, into developing a stable, high-quality education system. Accordingly, particular attention will be paid to the role of education-related laws and legislation in ensuring the rights of all stakeholders in the education process: parents, teachers, and students. I believe that education is a fundamentally important investment, perhaps the most important, that any country can place on behalf of the welfare of its people. This understanding of context enhances my awareness, knowledge and sensitivity to the phenomenon under investigation here, and has assisted my interaction with study participants.

As a qualitative researcher, I made no attempt to be an “objective, authoritative, politically neutral observer standing outside and above the text” (Richardson, Denzin & Lincoln, 2000, p. 1049). Even though my personal experience, as well as my professional conduct as a teacher, might have occasionally interfered with the way I proceeded with this study, I did not try to ignore my biases. Rather, I endeavored to explain the potential impact of such bias throughout this study, because the “researcher must be aware of any personal biases and how they may influence the investigation” (Merriam, 1998, p. 21). I believe there is no type of investigation which can be entirely isolated from its researcher's subjectivity. Even the idea, or inquiry that initiated the research has a subjective source (Al-Kandari, 2007).

### **Participants**

The non-probability sampling has been chosen for this research. This type of sampling does not allow the chance for every element in the population to be selected as a research subject, meaning it is likely that some members of the wider population will be included and others will not. While the interview selection process was in accordance with the research aims,

the study results cannot be generalized, because the sample range does not fully represent the wider population (Marshall & Rossman, 2011).

Purposive sampling is a commonly used non-probability sampling method, as it facilitates analysis and addresses the difficulty of including all Kuwaiti official influencers in areas of education-related laws. Purposive sampling also provides useful information from selected participants to help with understanding the research phenomenon (Creswell, 2014). Merriam (1998) illustrates that there are many instances where such sampling is used. This may mean interviewing primary sources, such as those who have extensive knowledge and expertise in specific areas. It can also include people based on their position of power, their profession, their access to certain networks, and other related issues.

Moreover, it is not necessary that the purposive sample should be large in number, because sample selection depends upon the capacity of the participants to provide valuable information. In other words, the advantage of a purposive sample lies in its ability to enrich the research data (Creswell, 2014). Therefore, participants were chosen according to their ability to provide in-depth, meaningful information to strengthen the dataset and answer the research questions about education-related laws in Kuwait.

Twelve Kuwaiti official influencers in area of education-related laws were interviewed in the study. The criterion sampling was the strategy used before the data collection step; however, convenience strategies were used during data collection. The criterion sampling strategy for this study was characterized according to the literature review as being comprised of Kuwaiti official influencers who had prior experience in dealing with, forming or implementing education-related laws. In other words, the identified participants were chosen because they were likely to be knowledgeable and informative about the specific phenomenon I wished to investigate, by virtue of their professional roles and experience (Cohen, Manion & Morrison 2011). More specifically, three groups were identified as study participants: (a) parliamentary members; (b) ex-Ministers of Education; and (c) directors of general education.

*Parliamentary members* were identified as formal and current members of the Kuwait National Assembly who have held a position for at least one session at CACG and had prior experience with enacting education-related laws. The *ex-Ministers of Education* were identified as the highest level decision makers in the MoE and had prior experience in enacting such laws and implementing relevant legislation with the Ministry for at least for one year. *Directors of*

*general education* are the managers who are required to implement the MoE's policies and regulations. The sample of this group was represented by managers from the six educational districts in Kuwait who had at least a year's experience in their position. These directors are appointed by the Minister of education.

The participants had diverse backgrounds, with experience in fields such as law, education and finance. They also held a variety of opinions with respect to their political affiliations, such as democratic, republic and Islamic. The interviewees were a mixture of men and women, and their professional experience ranged from two to twenty years. Most importantly, the three distinct groups I chose from included subjects whom I believed had the ability to provide informed perspectives regarding the nature of existing Kuwaiti, education-related laws, and would also answer the research questions. Table 4 shows the number of participants in each group, and their demographics.

Table 4

*Number of Participants in Each Group and Their Demographic Information*

	<b>Participants</b>	<b>Work Position</b>	<b>Number of Participants</b>	<b>Gender</b>
1	Formal and current Parliamentary Members	Kuwait National Assembly (Members of CACG)	Six	All Males
2	Ex-Ministers of Education	Ministers of Education	Four	Three Males, One Female
3	Directors of General Education	School District Leaders	Two	One Male, One Female
Total			12 Participants	10 Males, 2 Females

The participants recruited for this study are individuals with power and influence, i.e. the elite of Kuwaiti society. Unfortunately, while they possess valuable information and may be familiar with the legal and financial structures under investigation, it is often difficult to gain access to them. This is partly because they are usually busy people and have demanding time constraints (Arbogast, 2000). Furthermore, since they reside in the upper echelons of power, it is

difficult for ordinary people to reach. Marshall and Rossman (2011) argued that interviewing elites present significant challenges regarding the structure of the interviews, due to the likely large gap in social status between the interviewer and their subject. Accordingly, I was keen to take into consideration that the research questions would be appropriate for the positions represented. Moreover, I was careful when choosing the ways in which I dealt with these sample groups by using specific words when asking questions or when requesting clarification.

### **Data Collection Procedures**

Conducting an interview is a popular tool for educational research, and investigators are employing them with increasing frequency to obtain their data (Robson, 2011). An interview is a fluid way for gathering data through the process of asking people questions about what is occurring (Robson, 2011). Indeed, as the interview is a conversation between researcher and subject, the researcher asks questions which either directly or indirectly gather information intended to bring meaning and clarity about the topic under discussion (Male, 2006; Yin 2015). Considering these benefits, the interview was used as the primary tool for collecting data for this study. The study is designed to get first-hand accounts from official influencers in the Kuwaiti education system regarding their perception of existing education-related laws in Kuwait, and the ways in which these laws might be improved.

Wragge (2012) determined that there are three basic forms of interview: (a) structured; (b) semi-structured; and (c) unstructured. Structured interviews are another facet of the questionnaire. They allow direct contact between the researcher and the respondent with a controlled list of questions that are mostly open-ended or closed in nature (Denscombe, 2010; Thomas, 2013). The semi-structured interview is more flexible. The researcher has a list of topics or issues they wish to discuss with the interviewee, rather than a specific set of questions (Robson, 2011; Thomas, 2013). This type of interview gives the researcher more freedom in the arrangement of questions, and allows them to react extemporaneously to new ideas or emerging worldviews presented by their respondents during the conversation, which in turn leads to ideas and information they hadn't previously known to ask about (Merriam, 1998). Consequently, many of the core questions were complemented by a series of spontaneous probing questions that added depth and detail to the subjects' responses and allowed for the exploration of issues not covered by the initial questions in the protocol. In contrast, the unstructured interview is open



with a substantive flexibility and freedom over the semi-structured method. It focuses on the chosen topic in general, letting the respondent discuss their ideas and thoughts (Denscombe, 2010; Thomas, 2013). In accordance with the information above, the semi-structured interview was selected for this study.

Permission to conduct the research was given and the Institutional Review Board (IRB) application was approved for this phase of the study (see Appendix A and B). Each participant was interviewed individually. The participants were contacted by telephone or in person, and informed of the study's purpose. They were then asked if they would be willing to participate in the project. Those who volunteered to take part consented to do so without hesitation after being assured about the confidentiality regarding the data gathered from them to obtain in-depth answers. The researcher promised to keep their identities completely secret in every regard. The blank consent form that study participants filled out can be found in Appendix C.

Each interview was planned for an agreed upon time, date and place with each subject. Interview sites were chosen to avoid being affected by power relations. Each interview took roughly 50 to 60 minutes to conduct, and was both recorded and written down with their permission. All interviews were conducted in Kuwait during the summer of 2017. I audio recorded the interviews using the Voice Memo app in my iPhone. After each interview, I downloaded the audio recording to my laptop computer and named each file according to a participant pseudonym and date of the interview. I listened to the audio recorded of the interviews and transcribed each interview word-for-word into word documents (Lincoln & Guba, 1986). Each recorded interview was transcribed within 48 hours to assist the accuracy of its transcription.

### **Interview Protocol**

Based on relevant literature and research questions, the interview protocol was developed. The protocol consisted of ten questions which were negotiated with education experts (see Appendix D). Four educational management professionals working at Kuwait University were asked to examine the interview protocol and provide feedback to ensure content validity. They provided feedback in a private meeting, and together we discussed their suggestions for modifications and additions to the interview protocol. Moreover, a practice interview was conducted with one of the experts in order to evaluate and improve the interview protocol.

Additionally, since the interview was in Arabic, the interview questions were translated from English to Arabic by qualified translators who have experience in the educational field.

Each interview began with an explanation of its purpose as well as the researcher's definition of the education-related laws and the study's focus (such as K-12 public education). Then the interviewees were asked a number of questions based upon the main research topics, with at least one follow-up in most of the interviews which enabled a participant to either expand upon a thought or clarify something that was stated. The interview protocol consisted of similar points and was followed step-by-step according to each interviewee's level of professional responsibility. The general themes for the questions within each interview were generally similar. However, there were some differences between the questions which depended upon the nature of each group. This was simply because people differed in each group according to their social status as described herein. In other words, parliamentary members are considered to be legislators, and directors of general education are effectively legislation implementers, while ex-Ministers are considered to be both legislators and legislation implementers.

### **Data Analysis Procedures**

The process of data evaluation involved preparing the data, conducting different analyses, delving deeper and deeper into understanding and representing the data, and then interpreting its larger meaning (Creswell, 2014). Creswell (2014) noted that analyzing data from qualitative interview research is an ongoing process; one that involves "continual reflection about the data, asking analytic questions, and writing memos throughout the study" (p. 184). Therefore, after conducting the interviews, I listened to the audio recordings within 48 hours of making them with the goal of meticulously transcribing their content. During this process, I studied the transcripts for common themes or emergent patterns.

A form of whole text analysis which originated from the analytic procedures created by Glaser and Strauss (1967, as cited by Hein, 2015) and Corbin and Strauss (2008, as cited in Hein, 2015) was employed. Material relevant to the research questions was then extracted from each transcript in the form of quotations. A line-by-line approach was used to identify these excerpts, with the unit of analysis being a sentence. An excerpt is a segment of text that contains one or more sentences. Each excerpt contained a complete thought, or expressed a specific meaning of relevance to the phenomenon being studied. Each excerpt was then tagged, using one or more

codes, before identifying the next excerpt. A code is a series of words that represents or captures implicit and explicit meaning at a conceptual level. As excerpts were coded, the meanings of codes were discussed and debated. Similarities with, and differences from, other codes were considered to help refine them, and some codes were modified and/or eliminated. Each interview was coded at least six times. Analytic memos were used to enhance meaningful, reflective analysis. Additionally, the code-recode strategy for interview transcripts was used to increase dependability of the research process and inter-reliability (Anfara, Brown, & Mangione, 2002).

The codes were then compared, and those which defined similar experiences or contexts were clustered to form a category (Marshall & Rossman, 2011). Categories capture meaning at a more abstract level than codes. Codes sometimes fit into several categories and initial categories were often revised as the codes were reorganized. The final categories were then evaluated based upon their internal homogeneity (meaning that the codes within any particular category captured its meaning) and their external heterogeneity, thus ensuring they were mutually exclusive. The data within a case was identified and described to identify emerging coded themes. At the end, phenomenological across-case data analysis was conducted to perform data reduction and identify the final essential themes (Creswell, 2014). Using back-translation (Brislin, 1970), Arabic and English versions of the finding were examined by two professional translators to ensure no significant discrepancies.

### **Authenticity & Trustworthiness**

The value of qualitative research depends upon its authenticity and trustworthiness as these reflect the quality of the research. In traditional research, these factors are called ‘validity’ and ‘reliability’. However, Lincoln and Guba (1986) argued that qualitative research needs to replace the quantitative notion of ‘validity’ with ‘authenticity’, and ‘reliability’ with ‘trustworthiness’. In qualitative research, reliability is related to the probability that repeating a research method would end with a similar result. They also stated that researchers in qualitative research cannot demonstrate transferability. The researcher’s task is to provide a clear, detailed and in-depth description of how they gathered their data, leaving readers and users to decide as to whether or not the research is reliable. On the other hand, Winter (2000) claimed that validity in qualitative research must... “depend on the purposes of the participants, the actors, and the appropriateness of the data collection method used” (p.7). Besides, Cohen et al. (2011) suggested

that ‘understanding’ is a more suitable term than ‘validity’ in qualitative research, which makes research that takes the qualitative approach more focused on the aim of the research.

The following steps were taken to ensure the authenticity and trustworthiness of this study. First, the interview questions were negotiated and discussed with the researcher’s supervisor, other experts in the field, and a pilot interview was conducted with one of the experts in order to improve and evaluate the interview questions. Additionally, the code-recode strategy for interview transcripts was used to increase dependability of the research process and inter-reliability (Anfara et al. 2002). Since the interview was in Arabic, the interview questions were translated from English to Arabic by qualified translators who have experience in the educational field.

### **Ethical Considerations**

There are ethical considerations when any research involving people is undertaken (Robson, 2011). Researchers should be careful during their work to protect both themselves and the participants. In this case an ethical approval form from the IRP was obtained to conduct the research. Participants were informed in writing about the purpose of the study and were asked to sign this form (see Appendix B). Participants were anonymous throughout all the research steps, especially during the interviews. All the interviews for this research were conducted with the agreement of the participants. The data collected was held securely and no one was permitted to read it except the dissertation supervisor. All participants had the right to withdraw from this research at any time, and an email and contact number were made readily available in case they decided to do so. Finally, participants were offered the chance to look at the project after it was submitted.

### **Chapter Summary**

This chapter described the methods used in the study. Information was provided concerning: (a) the research questions; (b) the research approach; (c) the research design; (d) the researcher’s role; (e) the study participants; (f) the data collection procedures; (g) the data analysis procedures; (h) the data’s authenticity and trustworthiness; and (i) ethical considerations. In chapter IV, the results from this study are fully explained.

## CHAPTER IV FINDINGS

This chapter offers a description of the qualitative analysis of interview outcomes. It classifies and presents the themes arising from the data in detail, and the categories which comprise each theme. These categories are used as a framework for organizing a comprehensive discussion. It should be emphasized that although categories are discussed separately, they should be viewed holistically. A detailed overview of data outcomes is also included and participant interview responses are quoted directly (translated from the original Arabic). This selected approach involves the integration of analytical description with participant reaction (Hein, 2015). An introductory statement provides a general summary and relevant context so that the reader can properly understand the response to any particular question.

In terms of data collection, twelve interviews were conducted with Kuwaiti officials of influence regarding education-related laws. The fundamental question asked of each subject was: “How do you as a Kuwaiti official interpret the laws in question?” Interviewee responses were considered with respect to their professional function and experience. Specifically, parliamentary members were viewed as legislators, directors of general education as legislation implementers, while Ministers of Education were considered as both legislators and legislation implementers. Five primary themes were generated as a result of these interviews, and they are discussed in the following.

### **Theme 1: Characteristics of Education-Related Laws**

This theme centers around identifying participant responses concerning the nature and extent of existing education-related laws by addressing them characteristically. Two categories were identified under this theme: (1) the important role of education-related laws, and; (2) their inadequate organization.

#### **Category 1: The Important Role of Education-Related Laws**

The majority of interviewees stressed that the Constitution of Kuwait clearly emphasizes that adequately educating the citizenry is one of the State’s most important responsibilities. Prior to the Constitution, such an objective had not been possible due to the absence of a comprehensive system of laws, statutes and regulations to ensure a safe educational environment.

The interviewees also noted that the primary objective behind adopting and promulgating any education-related legislation is the primacy of the education system, and positive effect the new law should have in preserving justice and equality for all of its stakeholders. Furthermore, the interviewees mentioned that the importance of education-related laws is related to their powerful influence and rigorous application; meaning their ability to minimize injustice and nepotism. This is essential to ensure the equal accountability of all individuals involved in education.

The interviewees largely agreed that the broad agenda for these laws was focused upon the common goal of successfully educating the populace. One of directors of general education interviewed described the necessity for education-related laws as follows, “Education that provides equal opportunity for all students is vital to achieve unified progress which will positively affect the development of our society”. The interviewees also argued that the preservation of rights and their stability within the educational system must be firmly anchored in a clear legal framework, which is the reason for the existence of education-related laws in any society. Furthermore, some interviewees argued that the success of the educational system must be reflected in its core; that it is measured against the academic growth and achievement of students.

## **Category 2: The Inadequate Organization of Education-related Laws**

Although all respondents acknowledged that these laws played an important role in the educational system, a number of interviewees, mainly parliamentary members, noted that they were less effective due to the absence of a competent authority responsible for their legal review, within a specific framework, to identify each law’s strengths and weaknesses. In addition, one parliamentary member with legal expertise explained, “The legislative system in Kuwait lacks a specific code for educational law. As such, every piece of legislation or decree affecting education is issued separately and not under the specific provisions of the preceding education-related laws”. Therefore, reviewing, evaluating, and developing a new education-related law is, unfortunately, a more complicated process as confirmed by the interviewees.

The interviewees mentioned additional evidence that education-related laws are poorly organized by revealing that both school system and MoE employees are regulated under the same Civil Service Law which prescribes the general rules, rights and obligations expected of their work. The interviewer suggested that teachers should have a separate set of laws which

recognizes them as educators. The lack of such legal clarity has led to confusion amongst participants. It was evident that the three groups of interviewees were inadequately familiar with the content of existing related law. Indeed, when they were asked to identify the laws which affect education, there was little agreement amongst them. In this context, just seven out of twelve participants identified the two Constitutional statements that affect education directly (Articles 13 and 40). As one of the ex-Ministers indicated, “Article 13 and Article 40 of the Constitution of Kuwait comprise the main Constitutional framework for the legislator to enact laws in areas of education such as the Compulsory Education Law”. It was clear that Articles 13 and 40 offered a Constitutional guarantee of the right to an education, the highest level of protection that can be accorded.

As mentioned by most of the interviewees, few laws concerning education have been issued since the establishment of the National Assembly in 1963. In general, parliamentary members and ex-Ministers knew about the existing, education-related laws relative to their position and experience in office. The interviewees described Compulsory Education Law No. 11 of 1965 as the first piece of legislation in the area of education. One of the ex-Ministers stated,

After Kuwait became independent in 1961 and, as a result of enacting Article 40 of the Constitution, the National Assembly agreed upon the Compulsory Education Law, particularly with respect to the high rate of illiteracy in Kuwait at that time; establishing punishment for not complying with the law which was recently changed to be more stringent..... As this law was created at the time when there was no private education in Kuwait, the law was recently amended in order to determine the growth and responsibilities of private education to enforce compulsory attendance.

In addition, five of the interviewees pointed to Legislative Decree No. 4 of 1987, which concerned Public Education, as the general legal framework for public education. They stated that this law was necessary to clarify topics related to educational goals and administration. Interviewees added that this law was significant in establishing the Supreme Council of Education which is charged with setting official policies. The law also seeks to avoid duplication of effort or waste of material resources in the education sector. Furthermore, some of the interviewees also identified Amir Decree No. 308 of 2006 regarding the NCED as one of the laws that also affected education quality in Kuwait. One director general commented, “The

NCED was set up by a series of important, quality-related reforms..... the Integrated Education Reform Program set up by the NCED had student learning as its focus, and goes straight to the heart of what affects quality education most”. The interviewees noted that the NCED focused on curriculum development, teaching and school leadership, strengthening the education center and its capacity for assessment, not to mention developing national standards - all of which are important to ensuring systemic improvement.

In the same context, ten interviewees mentioned Law No. 28 of 2011 concerning the Granting of Allowances and Bonuses to Members of the MoE. Commenting on this law, an area director general said, “The Granting and Bonuses Law was issued to reinforce the material aspect of the educational body, and to encourage the professional development of the teacher in the educational sector... In general, teaching is considered to be a hard profession”. As already mentioned in a previous chapter, this law makes provisions for awarding members of the educational system career-level bonuses, supervision allowance for guidance functions, and incentives to attain scientific qualifications. This law was recently amended to accommodate suggestions from the Kuwaiti Teacher Association to ensure compliance with the requirements of Civil Service Law.

Lastly, six of the interviewees mentioned the Rights of Individuals with Disabilities Law No. 8 of 2010, which specifies the needs of disabled persons and helps to facilitate their overcoming any obstacles to integrate them properly within society. As an ex-Minister commented, “The Rights of Individuals with Disabilities Law emphasizes the inclusion of individuals with disabilities at various educational levels through the use of suitable educational materials, curriculum adaptations, and making the community aware of the rights of people with disabilities”. This law supports the equal rights of individuals with disabilities to obtain free and appropriate education.

Overall, the participants recognized five decrees and pieces of legislation related to the educational process. Four of them are directly related to education: the Compulsory Education Law, the Public Education Law, the NCED Law, and the Granting of Allowances and Bonuses to the Members of MoE Law. Only the Rights of Individuals with Disabilities Law was indirectly related to education according to the interviewees.



## **Theme 2: Problems in Education-related Law Formation**

The formation process, as identified by the participants, is the step in which a law is first created and developed through the Amir and the National Assembly, where the Kuwait Constitution is the reference for all legislation. Additionally, the interviewees mentioned several problems in developing education-related laws discussed under two main categories: (1) the inefficient role of the CACG, and; (2) the slow and complicated legislative cycle.

### **Category 1: The Inefficient Role of the CACG**

The creation of education-related law is inherently a political process. Interestingly, the interviewees had varying perceptions concerning the role that the CACG plays in this process, due to their differing understandings of its function as a governing body. As one of the parliamentary members stated, “The CACG is a political, rather than a technical committee, because we study most of bills from a political perspective, and not from the stance of their goals or impact upon the quality of education”. The interviewees further indicated that the Committee has a supervisory role regarding the investigation of irregular educational cases, or any proposals submitted to them for investigation, and deals with them as purely political issues.

Interestingly, an important pattern emerged from interviewees responses regarding the CACG’s behavior respecting the overlapping roles between Committee members and the Minister of Education (representing the executive branch). One of the deputies claimed that, “The Council of Ministers, in particular the Minister of Education, is a weak administrator that cannot provide laws or strategic plans, and this pushes the deputy to propose laws in the form of executive functions.” On the other hand, one of the ex-Ministers described the CACG’s actions as impeding the implementation of laws, arguing that,

There is always a legal conflict and Constitutional debate between the Minister of Education and members of the CACG... the MoE must not be led by the CACG, and should respect Article 50 of the Kuwaiti Constitution which emphasizes the independence of the authorities - both the legislative and executive branches - with respect to one another.

In the same context, interviewees declared that there is no clear system for mapping the decision-making process within the CACG, and that there is no mandatory procedure or legislation that encourages the use of scientific evidence or expert experience before making

decisions. Some interviewees stated that the decision-making process depends upon initiative from the CACG membership. One parliamentary member, reflecting upon his own decision-making process, mentioned,

The way decisions are made is based upon the personal expertise of a CACG member and how he chooses his consultants... Every member relies upon the experience that he has in the field of education... For example: I, as a doctor at the University, transfer my University experience. Thus, I experienced the problem of student overcrowding, additional school hours, the problem of seats, the problem of classes and the problem of the labor market based upon my personal experience. When I read a law proposal or draft, I reflect upon my own personal experience when making judgement.

As repeatedly emphasized by interviewees, mainly those who were parliamentary members, work in the CACG was described as being inefficient because of three reasons: (a) the attention given to popular proposals, such as teachers' salaries, rewards, and building schools; (b) a lack of stakeholder participation in the process of educational decision-making within the CACG and; (c) the lack of using research-based evidence to develop education-related laws. The interviewees claimed that the presence and participation of stakeholders within the CACG is only an option based on Committee members' actions. As such, one of the deputies made the suggestion stating that to raise CACG efficiency, "It is necessary to involve educators and the results of recent research in the evaluating process of the education bills within the CACG... Unfortunately, the current advisers in the CACG represent only the legal aspects of these laws".

Regarding the content of education bills submitted to the Committee, some deputies mentioned that most of these proposals are complementary to previous laws and do not contain strategic plans. One of the parliamentary members illustrated this point stating, "The bills submitted to the CACG reflect the interests of certain groups in society, such as the Teacher Association and Students Union, which are mostly financial requests". Another parliamentary member confirmed the weak nature of content within most proposals commenting, "Although there are a large number of education bills submitted to the CACG, there is no actual production of new, effective laws... Many bills just focus on issues aimed to achieve specific electoral interests or appease public feelings".

In summary, the number of bills submitted does not necessarily reflect the quality of their intent, nor the commitment of members towards the real development and improvement of the

education process. Unfortunately, the interviewees felt that some politicians, such as parliamentary members or Ministers of Education, only approved bills which improved their personal popularity, and therefore their electoral advantages.

### **Category 2: Slow and Complicated Legislative Cycle**

Similarly to their responses on the formation of legislation, the interviewees confirmed that the legislative cycle is slow and complicated. They also noted that the process varies according to whom submits the legislation, whether they are the Amir, the Minister of Education, or parliamentary members. For example, Amiri decrees are issued directly by the Amir himself when the National Assembly is not in session, such as during summer recess, or the dissolution of the National Assembly. The Amir can also make decrees if there is a need to expedite their implementation. However, Amiri decrees must be presented to the National Assembly for their consideration as soon as is practical, whether this is following a holiday or immediately after reconvening the Assembly.

However, bills submitted by the Minister of Education or a parliamentary member travel on different paths. An ex-Minister described the process, stating,

The bills submitted by the Minister of Education go directly to the CACG of the National Assembly. However, bills submitted by a parliamentary member take a more complicated and slower legislative route, passing through advisory and legislative committees to ascertain their legal opinion and the legislation's Constitutionality.... If approved, the bill then moves to the CACG.

Upon a proposed bill's arrival at the CACG, Committee members request and hear arguments for or against its passage from all parties involved with the proposal's content and its implementation (such as the MoE). Based upon these discussions, the CACG writes and publishes a report which details the opinions of committee members and those of the relevant executive party. The report is then presented to the National Assembly for their consideration, which concludes with a vote to either approve or reject the legislation.

One interesting discovery was the realization that the level of difficulty involved in amending or revising a bill depends heavily upon what type of legislation it actually is (such as laws or Amir decrees). For example, it is more difficult to amend laws, because they require a legal decision from the Constitutional Court to determine whether or not the changes violate the

Constitution. However, it is less complex to amend, or even strike down Amiri decrees, because they are all administrative decisions, which fall under the purview of courts that used the administrative laws such as the Higher Court of Appeal and the Court of First Instance. Even so, Amiri decrees do have the power of law. In addition, the interviewees also noted that the process of changing or amending regulations depends upon who the legislator is (e.g. the Amir, or the Minister of Education). In other words, amending any regulation issued as a decree can require years of argument in the courts using administrative laws, while the Minister of Education can more easily amend or cancel any regulations that they themselves created.

### **Theme 3: Obstacles Hindering Implementation of Education-Related Laws**

This study considers the implementation of education-related laws as the step by which they are enacted. This step is usually taken by the Prime Minister and Cabinet Ministers empowered to create the administrative regulations, which finally carried out by teachers in classrooms. There are obstacles to this process though, and the interviewees described them as falling within two main categories: (1) a lack of accountability, and; (2) a weak enforcement system.

#### **Category 1: Lack of Accountability**

The majority of interviewees emphasized the problem of accountability with respect to implementing education-related law. Accountability, as defined by the participants, involves a specific person or organization taking responsibility when something goes wrong, explaining their actions in how it occurred, then putting matters right if possible, or suffering potential consequences if not. In this context, according to interviewee responses, accountability has three forms: (a) judicial; (b) parliamentary; and (c) ministerial.

The Kuwaiti judiciary, represented by the family, criminal, civil, commercial, leases and administrative laws, plays a limited role with respect to accountability. One ex-Minister described it as follows, “The Constitutional court’s function is limited to determining the constitutionality of laws, while other courts using the administrative laws are used to ensure Amiri decrees comply with the regulations and educational policies derivative of current laws”. In term of education-related litigation, the interviewees mentioned that during the past, the education sector in Kuwait witnessed many issues that have subsequently been resolved through

the courts, such as housing allowances, teacher salary, and publications, etc.. They also noted that some laws linked to education do not adequately describe the legal procedures for coping with issues such as teacher assault or student abuse, etc. and this makes accountability difficult to apply in these cases.

As for parliamentary accountability, the interviewees laid part of the blame upon the public for making poor decisions at the ballot box in who they voted into public office. One parliamentary member summed up this opinion stating,

There is a lack of awareness among citizens in the selection of parliamentary members according to the public interest..... Since the selection of deputies in the first place was the people's responsibility, it is necessary to raise awareness among citizens regarding the importance of choosing the most qualified person for parliamentary work..... because the quality of the laws, and the effectiveness of parliament's work, largely depends upon the capability of the deputies selected.

In the same vein, the interviewees expressed the need for changing the mechanism for selecting Ministers, including the Minister of Education, and to support the creation of political parties that can participate in forming the government. One of the parliamentary members underscored some of these issues with the following, "It is unfortunate that the appointment of the Minister is made by the government, regardless of electoral results, and then there is the role of parliament in determining the accountability of the Minister, and even his dismissal in some cases". Interviewees suggested that having political parties in the National Assembly that had a say in the government's selection of a Minister might lead to more appropriate personnel being selected for Ministerial leadership.

When it comes to Ministerial accountability, there is a serious continuity problem with the implementation and application of laws, because any one Minister is rarely in office for long. And with every new Minister comes a whole host of new ideas and policies which often weaken or erase the previous Minister's efforts, and this obviously leads to confusion and wasted effort. One ex-Minister expounded on this unfortunate reality saying, "The Minister of Education is not given enough time to follow up on the implementation of his plans... There must be cooperation between the Minister and parliamentary members to allow him to work without them targeting his mistakes". Furthermore, the interviewees clarified that the current situation makes it virtually

impossible for a Minister to make much progress with their efforts due to the near-constant interrogation and criticism from parliamentary members seeking to undermine them.

Additionally, the interviewees argued that there were not enough measures in place to adequately implement education-related laws. A director of general education elucidated this problem saying, “Implementation mechanisms were improper. They were not based upon an educator’s experience, or research to identify the best ways of implementing these laws”. The interviewees noted that this problem was further exacerbated by poor communication between individuals in the lower ranks, such as school principals and teachers, regarding the implementation mechanisms of education-related law, or how to avoid any pitfalls when employing them.

### **Category 2: Weak Education-related Law Enforcement System**

The interviewees focused on the necessity for empowering the Supreme Education Council in enforcing the implementation of educational decisions. The Supreme Education Council is comprised of educators, education specialists, and members of the Ministry of Education (including the Minister). However, although the Council has an important role, it has often been ignored. An ex-Minister explained how this could occur, “When I was in charge of the Ministry, I activated the role of the Council, and used it to draw up educational policies. But when another Minister was assigned in the MoE, the Council’s work was again ignored”.

Part of the reason for the Supreme Education Council being ignored so often is that the Minister of Education, by law, is the only person authorized to activate it, so its use is entirely dependent upon his discretion. To improve the Council’s role in policy-making and its supervision, one of the directors of general education suggested, “The Supreme Education Council must have a special law that supports its supervisory role with respect to the MoE... as such, the MoE shall be the executing agency, while the Council shall be the responsible for educational decision-making, policy-making and supervision”.

From another perspective, the interviewees focused on the need to develop the administrative apparatus within the MoE, and to support decentralization in education areas, generally, and in schools, specifically. An ex-Minister mentioned a proposed law towards this end,

I suggested a law for the establishment of a legal entity to directly deal with the school for financial transactions, contracts, the appointment of teachers and the rental of school playgrounds, and this cannot be executed unless there is a law which gives the school legally independent status... but this proposal was not followed-up upon after I left the Ministry.

#### **Theme 4: Strong Influence of Actors on Education-related Laws**

The interviewees recognized that there are a wide variety of actors who influence education-related laws, both in their formation and implementation processes. From their responses, two key actors emerged: (1) official actors with direct impact, and; (2) unofficial actors with indirect impact.

##### **Category 1: Official Actors with Direct Impact**

The interviewees identified official actors as being those who possess legal authority to affect education-related laws. Such official actors include legislators, the executive (Minister of Education), and the judiciary, as each of them holds lawmaking responsibilities, albeit in different ways.

Legislators influence education-related laws the same way they do any other law, by proposing, debating and/or passing them. National Assembly members have several motivations with regards to affecting education-related laws, including their perception of the need of such laws, a wish to solve a particular educational issue, or simply the desire to improve education as they see it. Expounding upon this, one of the parliamentary members stated that, “The interests of Kuwait always come first... The success of the educational system has a great impact on the development of the country. In fact, education affects every household, whether it is a student’s, a teacher’s or a guardian’s”. The interviewees also affirmed that the laws which promote educational development and the progress of society are significant, especially in relation to the weakness of the government’s role in this area.

However, a serving Minister of Education is seen to have an influential role in creating education-related laws. One of the ex-Ministers described his role thusly, “My experience in the MoE as a Minister was one of having a large amount of decision-making freedom... So that all decisions essentially relied upon the Minister’s opinions, rather than being led from the outside”.

Even so, the Minister's responses showed a huge respect for external influences such as professional associations, collectives of individuals or parliamentary members. As one of them said, "Kuwait is a democratic country and the Minister has a duty to respect the opinion of the people... The dialogue is open to hearing the needs of various societal groups in line with state policies".

As mentioned earlier in this section, the Kuwaiti judiciary is also an 'official actor' with a direct impact upon education-related laws, for obvious reasons. Their judgements can affect the implementation of such laws, by amending or even cancelling them. Both criminal and administrative laws can play a role here. The criminal laws, by their nature, only deal with cases where crimes are involved, whether it be against a student or teacher, etc. Whereas administrative laws settle legal grievances or other administrative matters. The judicial decisions, where they touch upon the educational system, can influence the laws governing it on occasion. It is interesting to note, however, that judicial cases in Kuwait are supposed to be independent from one another, meaning that previous decisions in a similar trial need not affect the judge's opinion in another case.

### **Category 2: Unofficial Actors with Indirect Impact**

An unofficial actor is a person or entity that does not have the legal authority to affect education-related laws, unlike the official actor. This would include professional associations (both local and international), the media, and parents, etc.

During the interviews, local and international professional associations were observed as having a powerful influence over education-related laws. The local Kuwaiti Teachers Association is one which plays a vital role in shaping education-related law in Kuwait. This Association reflects teachers' opinions and has a specific, informed perspective that is acknowledged in many decisions involving education-related laws. One of the ex-Minister's backed this up by saying,

The Kuwaiti Teachers Association represents about 65,000 teachers. What motivates parliamentary members to submit [education-related] laws is the communication with professionals at the Teachers Association. In fact, the law passed on the teachers' grant bill was initially presented by the Association to the CACG... a parliamentary member



responds to such laws in light of their popularity with a large number of individuals. By approving them, his electoral chances of winning another session in parliament increase.

One of the parliamentary members described the role of the Teachers Association from a different perspective, mentioning the role of the informal political parties. He said,

The Teachers Association follows the Muslim Brotherhood movement in Kuwait [one of the nation's informal political parties]. As a member of the National Assembly, I seek to win their votes by adopting their proposals and educational suggestions.” On the other hand, one of the ex-Ministers stated that, “The MoE proceeds according to a clear line and a specific policy direction, and we do not allow external pressures, or political parties, or even professional associations to influence our work except within the scope of consultation and suggestions.

Another local professional association that interviewees cited as having an unofficial impact was the Supreme Council for Disabled Affairs. As an example, one of the directors of general education stated, “The Supreme Council for Disabled Affairs played a positive role in the suggestion of a number of laws related to individuals with disabilities and their rights, including academic, health and social aspects, to become effective individuals in society”.

The interviewees revealed that international professional associations such as UNESCO and the World Bank also had strong influences upon education-related laws. As one of the parliamentary members stated, “Sometimes signing international educational agreements obliges Parliament to issue new laws which are compatible with the provisions of the agreement to facilitate its activation in Kuwait”. The interviewees mentioned the *Convention on the Rights of the Child* and the *Labor Code* as examples of UNESCO agreements that have led to the issuance of several recent education-related laws in Kuwait.

Regarding MoE and the World Bank conventions, an ex-Minister stated that, “The World Bank is providing technical support for improving education at a cost of approximately 25 million Kuwaiti dinars (approx. US\$ 83 million). Based upon their reports, new laws and decisions are being adopted”. However, that being said, the majority of interviewees rejected the concept of using non-Kuwaiti organizations, such as UNESCO, to assess the domestic educational situation. They felt that this was better handled by qualified local professionals, whom they argued were more capable of understanding the nuances of local challenges from a deeper social, political and economic perspective.

Finally, some interviewees mentioned the role parents play in influencing education-related laws. They indicated that parents had a vital position and presented the largest aggregation of actors whose ideas were valued, because they dealt directly with students, their own children, on a daily basis. To support this argument, one parliamentary member contended that, “Some parents put personal pressure upon parliamentary members or Ministers, asking them to create solutions for their children’s educational problems”. The interviewees also noted how parents sometimes took to social media platforms, like Facebook and Twitter, to publicize their child’s issues at school, thereby potentially gathering momentum for their argument by whipping up public outrage to deliver their message forcefully and directly to the highest echelons of government. The government, in turn, might then place pressure on a school administration to acquiesce to the parents’ demands. This also demonstrates the unofficial and powerful role that media can play upon education-related government regulations and decisions.

### **Theme 5: The Need for More Effective Education-related Laws**

Most of the parliamentary members interviewed believed that current laws do not cover all topics sufficiently to ensure the rights of all stakeholders in education – parents, teachers, or students – in the school setting. The interviewees revealed the necessity for new education-related laws to improve the system. Two primary categories were identified as a result: (1) the lack of stakeholder rights, and; (2) the need for a strategic vision.

#### **Category 1: Lack of Stakeholder Rights**

The interviewees highlighted that lawmakers need to pay more attention to the legal protection of students. They said that new legislation should protect students from racial discrimination, bullying, and harassment, preserve their rights to freedom of opinion, while also respecting their privacy and the confidentiality of academic, social and psychological information. The interviewees also supported creating legislation that enshrines the right to free education in Kuwait for the children of non-nationals.

In this regard, the interviewees argued that despite the Compulsory Education Law confirming that education is free for all Kuwaiti citizens today, this does not confer the same rights to the roughly 70% of Kuwait’s total population, that are either state-less or citizens of other nations. Given this vast disparity in educational rights between nationals and non-nationals,

the interviewees read this as an alarm bell for the harmonious future of the country and felt it had to be addressed formally in legislation. One parliamentary member described the problem as follows, “The Kuwaiti government guarantees free access to education for children of citizens... However, non-citizen children do not have free access to these services... This distinction is due to a lack of legislation in favor of children of non-nationals”. The interviewees also acknowledged that while the Kuwait Fund has created an educational charity to provide tuition for stateless children, the funding isn’t sufficient to fully address the problem, which therefore still exists.

Moreover, an ex-Minister suggested the need for compulsory early education, saying, “Studies have shown that children have a greater ability to receive information in their early years, and the fact that kindergartens in Kuwait are not mandatory, means that some parents may neglect to educate their children at this important stage”. Interestingly, given the proven importance that early education can play on a child’s future development, some deputies suggested that kindergarten teachers should have a higher caliber of certification than currently required to receive their appointments.

In addition to improving students’ rights, the interviewees also targeted teachers’ rights as needing greater legislative support. One educational area director general stated that,

There is a need to establish special legislation for teachers and separate their rights and responsibilities from Civil Service Law. This legislation must also include provisions that protect the teacher and allow them a margin of academic freedom as well as define specific provisions to the code of ethics relating to the education profession.

While it is certainly important to ensure that teachers are treated properly via supportive legislation, it is also critical to confirm that they have the proper skills to teach effectively over time. There is currently no provision to measure this, as despite the approval of financial grants and teacher motivation specified in the Granting of Allowances Law, the law overlooks the critical need for monitoring a teacher’s level of competence in their job. The interviewees suggested a requirement for re-evaluating each teacher after a specific period known as teacher licensure. One of the ex-Ministers defined the issue clearly saying, “There should be a teacher’s license administered periodically in order to evaluate the teacher, ensuring improvement in their performance, especially as currently, the teacher is not evaluated [at all] after graduation”.

Accordingly, the teacher should have to take special courses and tests to ascertain their competency over time.

The rights of children with special educational requirements also need to be addressed more formally as well. For instance, one of the proposals championed by an ex-Minister that faded away once his Ministerial tenure ended, is the concept for a National Center for the Diagnosis of Learning Difficulties. He states in this regard, “At least 50,000 students in Kuwait suffer from learning problems. Studies have confirmed that the early detection of these difficulties allows for a better possibility of treating and improving their performance”. Given the stated goals within the 2010 law concerning the Rights of Individuals with Disabilities, there is surely a concomitant need for a center specializing in the early diagnoses of childhood learning disabilities.

### **Category 2: The Need for a Strategic Vision in Education**

Despite the critical importance of education to Kuwait, the interviewees emphasized that the direction of the educational process, for better or worse, currently depends almost entirely upon the whims of whomever is presently Minister of Education, when it should really follow a more stable, long-term strategic vision planned by the State.

All the interviewees stressed the problems involved with the present situation since Ministers are in office for such brief periods of time that no one vision for the future of Kuwait’s educational system lasts long enough to show any effect other than disarray. One of the ex-Ministers attested, “From 1990 to 2012, there were 21 Ministers of Education, at the rate of one Minister every year and three months, due to the political change and government instability, which tends to result in the dissolution of Parliament frequently for political reasons”.

The development of a sound education system clearly requires stability and hard work over the course of many years, after which the results can be evaluated and then improved. However, the ministerial decision-making process has become a political process, or as one of the interviewees describe it the *"politicization of education."*

To resolve this issue, some interviewees suggested limiting the role of the Minister of Education. In support of this idea, one of the parliamentary members said, “In general, the real role of the Minister is supposed to be the implementation of decisions in line with the existence of a previous plan and vision at the State level”. The interviewees argued that the repeated and

frequent change in Ministerial leadership, coupled with the consequent changes in education policy, demanded a new approach that could only be settled by placing education policy firmly within a national strategic vision, largely independent of whomever was presently Minister of Education. Furthermore, they stated that any new education-related laws must reference this strategic vision. One of the parliamentary members indicated that they felt,

The strategic plan should be in place for at least for 20 years, with a four year operative plan, and then an executive plan every year so that the Council of Ministers and the National Assembly can have an effective role in monitoring and implementing it, whether the Minister changes or continues in office... The existence of such plans defines a framework and a clear vision for the educational system.

### **Chapter Summary**

This chapter presented the findings from interviews with twelve Kuwaiti official influencers. Five main themes were generated from the data analysis: (a) the characteristics of education-related laws; (b) the problems in forming education-related laws; (c) the obstacles hindering implementation of education-related laws; (d) the strong influence of actors on education-related laws; and (e) the need for more effective education-related laws. For each theme, two categories were also developed. In chapter V, the discussion and implications of the study are presented.

## **CHAPTER V**

### **DISCUSSION & IMPLICATIONS**

This study has delved into a discussion concerning the formation, sufficiency and implementation issues surrounding Kuwaiti education-related laws with respect to their broader context. The study's design entailed basic qualitative research using a phenomenological approach. To gather data, twelve Kuwaiti official influencers were interviewed. After the interviews were transcribed, they were analyzed to determine the categories and themes which emerged from the resultant data, and to answer the research questions. The study's central question was: "How do Kuwaiti official influencers interpret education-related laws?". The four associated sub-questions were:

1. What perceptions do Kuwaiti official influencers have concerning the nature and extent of the nation's existing, education-related laws?
2. What insights can Kuwaiti official influencers provide regarding the process of forming and implementing education-related laws?
3. What thoughts do Kuwaiti official influencers have about the relevant actors and their roles in education-related laws?
4. What viewpoints can Kuwaiti official influencers share with respect to areas of education-related law which require improvement?

Five main themes emerged following interview analysis: (a) the characteristics of education-related laws; (b) the problems in forming education-related laws; (c) the obstacles hindering implementation of education-related laws; (d) the strong influence of actors on education-related laws; and (e) the need for more effective education-related laws.

#### **Discussion of the Findings**

This section discusses the findings and draws study conclusions. Key findings are presented and discussed according to each research question in relationship to the literature as follows:

## **The Nature and Extent of the Education-Related Laws – Research Question 1**

**Theme 1: Characteristics of education-related laws.** With respect to the first research question, participants stressed the importance of the Kuwait Constitution in making constitutional guarantees of the right to education. This provides the highest level of protection that can be accorded within the State codes. Thus, education is not just a privilege, but also a guaranteed constitutional right in Kuwait. The interviewees also recognized that the right to education is inextricably bound to the principles of justice and equal opportunity. However, by exploring education-related law in Kuwait, the findings found that it was an evolutionary process, which progressed over time since the foundation of the Kuwaiti legislature in 1963.

Furthermore, the interviewees mentioned that, although education-related laws played a vital role in structuring and monitoring the educational system in Kuwait, these laws were weakly organized. Moreover, the findings illustrated the absence of an authority to review, evaluate and appropriately structure the existing education-related laws in Kuwait. As the literature emphasized, having an organized system of education-related laws under one legal code is important to the stability and effectiveness of the education system as a whole (Alexander & Alexander, 2001).

It was evident that the interviewees had limited knowledge concerning the existing education-related laws. While this study was not intended to examine the interviewees' legal expertise, prior studies in educational law indicate that the knowledge of existing laws is a prerequisite for the successful formation and implementation of new laws (Findlay, 2007; Ndou, 2015). The findings also demonstrated that education-related laws in Kuwait fall into three main areas: (a) Constitutional statements; (b) legislation and decrees; and (c) administrative regulations and policies. Responsibility for dealing with Constitutional statements lies with the National Assembly and the highest authority within the MoE. Legislation and decrees are within their purview as well. Whereas it is the education districts and schools which contend with administrative regulations and policies. Of note, Amiri decrees generally have a more visible and influential impact upon the education-related laws in Kuwait.

The contents of education-related laws can be classified under two main topics: (a) laws regulating the educational sector, and; (b) the conservation of rights.

Laws regulating the educational sector outline the general framework for education. They include the general objectives which describe the target groups in each law, the mechanisms for

applying those laws, and the penalties associated with violating them. Examples of these laws include the Compulsory Education Law and the Public Education Law.

Laws which concern the conservation of rights focus upon certain categories of people in the community as a whole, or those working within the education system. An example of the former is the Rights of Individuals with Disabilities Law, while the Granting of Allowances and Bonuses to Members of the MoE Law falls under the latter.

Merely having educational-related laws in Kuwait is often not enough though. The quality of the statutes, policies, and regulations which govern the education system is also important. Ideally, educational laws must be evaluated rigorously to evaluate their effectiveness. Although, the Kuwaiti government wishes to provide quality education to its populace, and considers it a priority for improving both individual people, and the state as a whole, evidence suggests that the current education system is inadequate and does not produce high-level outcomes (Al-Kandari, 2013; CIA, 2016; Winokur, 2014).

### **Forming and Implementing Education-Related Laws – Research Question 2**

Two main themes were recognized from interviewee answers to research question two: (1) the problems in the formation of education-related laws, and; (2) the obstacles hindering their implementation.

**Theme 2: Problems in forming education-related laws.** The literature's perspective on policy formation can be summarized by simply stating that the universality of any particular problem usually encourages the creation of a law to address it (Eyler et al., 2010; Findlay, 2007; Heck, 2004; Mashau & Mutshaeni, 2013; Mawdsley, & Cumming, 2008; Ndou, 2015). As such, policy problems can usually be described as legal issues which first reveal themselves as social issues concerning justice, equity, and equality. This theme helped to explain how education problems are identified as policy issues and then placed on the legislative agenda (Green, 1989; Kingdon, 1984). The findings demonstrated that the creation of education-related laws is inherently a political process that solves educational problems (such as waste of public funds, poor application of laws and regulations, lack stakeholder rights, and the attack on the values of society). Therefore, many new laws and administrative decisions were established to solve these problems.



The interviewees revealed the important role that the CACG plays in forming education-related laws in Kuwait. They also noted its oversight role and a legal conflict between the CACG and the Minister of Education in investigating some irregular educational cases. Most of the existing scholarly papers on the subject have addressed the need for cooperation between the legislative and executive branches to support the development of education policy and regulation (Al-Kandari, 2013). The study's findings further revealed that there is both a lack of stakeholder participation and the employment of research-based evidence used during the creation and implementation of education-related laws. The study therefore highlighted the need to establish links between policymakers, stakeholders, and researchers. The same results were recognized by Al-Qalaf et al., (2006) whom emphasized the need for cooperation between the CACG in parliament and the MoE. Moreover, this study recognized the importance of developing and passing legislation based upon scientific evidence, as did the study conducted by Eyler et al. (2010). The report by Tony Blair Associates regarding Vision Kuwait 2030 (2004) also supported the findings of this study, as it identified that the MoE appears to conduct very little educational research as a tool for informing policy development.

Furthermore, the interviewees believed that the personal feelings, experiences and expertise of CACG members influenced their decision-making process regarding their review of any particular education-related bill, and their subsequent vote for or against it. This finding is somewhat in line with previous research, which has shown that legislators give weight to their own personal feelings when making decisions about education policy (Canfield-Davis & Jain, 2010). The interviewees showed that some politicians approved or submitted education bills to the CACG by first considering their own specific electoral interests or how to please public sentiment. These findings appear consistent with Al-Mahboub et al. (2013) and Canfield- Davis and Jain (2010). In addition, the findings highlighted the complex nature of the legislative process and the multiple influences over it, which is consistent with results from Canfield-Davis and Jain (2010).

**Theme 3: Obstacles hindering the implementation of education-related laws.** As the literature emphasized, accountability played an important role in the implementation process (Ndou, 2015). However, a majority of the interviewees identified that most problems with implementing education-related laws in Kuwait are related to accountability. When regarding judicial accountability, the interviewees believed that several education-related laws do not

describe the legal procedures with enough detail. This result was introduced by Weaver, Brown, Weddle, and Aalsma (2013) who stressed that the forming and implementing process for educational laws needed clarity and sufficient guidelines. In addition, the findings demonstrated that there was a deficiency in parliamentary accountability due to the poor quality of parliamentary members selected by public ballot. Al-Enazi (2007) verified that parliamentary accountability (or the lack thereof) has a significant impact upon a Minister of Education's performance in Kuwait.

One of the main weaknesses with the implementation of education-related laws in Kuwait, as identified by the interviewees, is that too often the process does not include evidence from scientific research or expert opinion. The literature's perspective is that the success of policy implementation depends upon the close integration of scientific research and professional experience (Head, 2008). Furthermore, similar to Ndou (2015), the interviewees argued that there were too few measures for implementing education-related laws.

On the other hand, the interviewees noted that the implementation process for education-related laws is made at the top of the educational hierarchy according to a top-down approach (Jann & Wegrich, 2007; Sabatier, 1986). Similar to Winokur (2014) the findings of this study identified that policymakers in Kuwait are relying heavily upon ministerial decisions. The interviewees argued that the centralization in Kuwait's education system is extreme, and that the Minister of Education is the ultimate decision maker. Indeed, this argument is understandable because the Prime Minister and the Cabinet Ministers in Kuwait are empowered to create the administrative regulations for the implementation of various laws. Thus, there is no separate administrative body for education-related laws in Kuwait (Kuwait National Assembly, 2011). Therefore, the interviewees focused on the need to develop the administrative apparatus in the MoE and to support decentralization in the education districts and schools. These results are consistent with Alkandri (2012).

### **Actors & Their Roles in Education-Related Laws- Research Question 3**

**Theme 4: The Strong influence of Actors on Education-Related Laws.** The findings demonstrated that all actors have their own interests and agendas in the area of education-related laws (Birkland, 2015; POPOOLA, 2016; Rizvi & Lingard, 2009). There are both official actors with direct impact, and unofficial actors with indirect impact influencing education-related laws

in Kuwait. Although the legislature as a whole is quite influential in relation to education policy, the findings showed that individual legislators themselves possess direct constitutional authority to initiate and formulate policies, so therefore they too can play a vital role in the process of creating and implementing education-related laws, which is consistent with Fowler (2012), POPOOLA (2016), and Canfield-Davis and Jain (2010). Moreover, the interviewees highlighted that the main responsibility of the executive in Kuwait is to implement public policy and to supervise, coordinate, and manage the ministries and departments that are involved in policy implementation; executive influence is therefore substantial. An activist executive member who places education high on their policy agenda obviously have a great impact upon public opinion, which in turn can have a strong influence over education policy (Fowler, 2012). And despite their low profile, judges are political figures who can exercise considerable influence over education-related laws as well, because ultimately, judges interpret the statutes enacted by the legislature and can overturn them if they choose to do so (Fowler, 2012).

Many actors were useful sources of information in illustrating the positive and negative aspects of education-related bills. Interviewees in this study agreed that the Kuwaiti Teachers Association was the most visible and influential lobbying organization for issues related to education, which is consistent with other studies that indicated the power which teachers' associations have over the process of forming and implementing education-related laws (Canfield-Davis & Jain, 2010).

The interviewees revealed that international organizations, such as UNESCO and the World Bank, also have significant sway over Kuwaiti education-related laws through their counsel and recommendations. However, the majority of interviewees saw this influence in a negative light, feeling that qualified local professionals would be more capable of understanding the nuances of local challenges and evaluating a situation from a deeper social, political and economic perspective. This result is consistent with Winokur's (2014) argument that policymakers in Kuwait are relying heavily upon the advice of international organizations like the UN. And finally, some interviewees noted that parents and the media can have a significant impact upon educational decisions, especially when parents take to social media to complain about an issue affecting their child. Sometimes the impact is strong enough that the Ministry responds to parents' complaints, either by cancelling a particular decision or by adopting a new policy in line with their demands.

## **Areas for Improvement in Education-Related Laws - Research Question 4**

**Theme 5: The Need for More Effective Education-Related Laws.** The findings in this study revealed that there is a need for legislation to ensure that the rights of all stakeholders in the education system -- parents, teachers, and students -- are respected in the school setting. Literature emphasized the need for legislation that protects students from racial discrimination, bullying, and harassment (Brien, 2004; Kerrigan, 1987). The interviewees also addressed the importance of respecting a student's freedom of opinion and the confidentiality of academic, social and psychological information. Moreover, the findings support the creation of legislation that preserves the right to education in the State, free-of-charge, to non-Kuwaiti children, as reported similarly by Al-Nakib, (2012) and Al-Temimi (2015). In addition, the interviewees suggested the need for special legislation for teachers that prescribes their rights and responsibilities, separate from Civil Service Law which is how they are currently governed. This legislation must include provisions that protect the teacher, allowing them a margin of academic freedom. It must also define a code of ethics relating to the education profession. These findings appear consistent with Findlay (2007), Alexander and Alexander (2015) and Dayton (2012).

Despite the importance of the education process, findings revealed that many education-related laws were the result of a Minister of Education trying to solve an urgent political problem, rather than a specific effort to improve the education system. Furthermore, the interviewees emphasized that while the educational process in Kuwait depends heavily upon the whims of whomever the current Minister of Education happens to be, it should actually follow a long-term strategic vision set by the State, therefore separating it from the instability of frequent Ministerial change and providing continuity of educational development. These findings are consistent with arguments that having a comprehensive education- related laws plays an important role in establishing standards, maintaining order, resolving disputes, protecting liberties and rights, and providing overall quality education (Alam et al., 2010; Alexander, 2015).

### **Implications for Educational Policy**

This study contributes to the body of knowledge concerning the process of creating and implementing education-related laws. Evidence showed that if educators understand these dynamics, along with other factors that influence education-related laws, then they will be better able to collaborate with lawmakers to create a superior framework of education-related laws,

which will in turn lead to a stronger, more equitable educational system for all (Canfield-Davis & Jain, 2010). While some implications of this study could be valuable to improving the process surrounding education-related laws in general, any discussion of these implications also has to be understood within the context of Kuwait's existing set of education-related laws. In view of the findings resulting from the present study, along with other related research, I would suggest the following actions be taken to improve the potential for creating a better system of education-related laws in Kuwait:

**1) Parliamentary Action.** The study's findings demonstrated that the parliament can play a key role in raising the quality of education by enacting effective educational legislation. Towards this end, it is imperative to have the highest calibre personnel available involved in the process. This can be improved by encouraging citizens to vote for the most qualified parliamentary members to represent them. It was evident that the quality of education laws and the effectiveness of parliamentary work largely depends upon these selected deputies (Al-Canfield-Davis & Jain, 2010; Mahboub et al., 2013). Additionally, the results addressed the necessity for establishing political parties within the National Assembly and by so doing, influence the decision regarding who is appointed Minister of Education. This would reduce the somewhat deleterious effect of government-only control over public education.

When it comes to the CACG, it is recommended that education-related bills be vetted from both technical and political perspectives to determine how they will impact the quality of education in Kuwait. At the same time, the results indicated the need to reduce the overlapping roles between the Minister of Education and the CACG members while also encouraging their collaboration. Additionally, study results suggested the need for a clear decision-making process within the CACG that involved educators, as well as the inclusion of any relevant scientific research, in evaluating any proposed education-related legislation.

**2) Legal Action.** The findings of many studies, including the current one, have demonstrated the importance of examining the strengths and weaknesses of educational legislation and policies. This evaluation process would take into consideration the needs of all stakeholders and influencers to help produce a high quality, equitable and efficient education system. These results demonstrated that to achieve this aim, there is a need for a competent authority in charge of legal review. Interestingly, the results also illustrated that education-related laws in Kuwait are clearly specified around the issue of their implementation, such as for due

process to protect both parents and their children. However, the results suggested the need for new education legislation for ensuring the rights of all stakeholders in education - students, teachers, and parents - are respected within the school setting as follows:

- ***Student rights.*** The results highlighted the need for lawmakers to pay more attention to the legal protection of students. Thus, the results showed that the existing education- related laws lacked details concerning any guarantee for legal procedures in many potential cases of education-related litigation, such as for the suspension or expulsion or disciplining of a student, child abuse, search and seizure, and confidentiality of student records. As such, there must be legislation that protects the student from racial discrimination, bullying, or harassment and preserves their rights to the freedom of opinion, as well as the respect of their privacy and the confidentiality of academic, social and psychological information (Alexander & Alexander, 2015). In addition, the results of this study supported the creation of legislation that preserves the right to a free education in the country for all children, not just those who are Kuwaiti citizens. The current failure to provide free, compulsory education for non-Kuwaiti children (who with their families make up roughly 70% of Kuwait's overall population) represents a major violation of the principles of human rights and strongly conflicts with the nation's commitment to universal education (Al-Nakib, 2012; Al-Temimi).
- ***Teacher rights.*** The findings emphasized the need to clarify the legal, ethical, and professional aspects of teacher rights. They also demonstrated the need for appropriate laws for teachers which recognize them as educators, separating their rights and responsibilities from Civil Service Law. This legislation must include provisions that protect the teacher and allow them a margin of academic freedom. It must also define specific provisions in the code of ethics relating to the education profession. On the other hand, as the Granting of Allowances and Bonuses to Members of the MoE Law mandates the financial grants and teacher motivation, there should also be an article in Kuwaiti law for monitoring the teacher's level of proficiency over time. The findings suggested that this could be achieved by requiring that educators have a professional teacher's license which has a provision for the annual re-evaluation of their competency.

- **Parent rights.** Unfortunately, education legislation in Kuwait currently lacks sufficient specificity respecting the parent's rights. The study stressed the importance of parental involvement in the educational, decision-making process, and this demands that they are more aware of their rights and obligations. Towards this end, the results indicated that schools should provide parents with information concerning their child's academic performance as well as their behavior in both social and academic situations, while still respecting the child's rights to privacy and confidentiality. Finally, the study addressed the vital role that social media can play in making the community aware of the importance of the interest and care for parent rights.

**3) Ministerial Action.** It is strongly recommended that education-related laws implementation, based upon situational analysis, is applied via a combination of top-to-bottom and bottom-to-top models. For instance, lower echelons within the education system (such as districts and schools) should have a degree of autonomy in deciding how to best employ education-related laws, due to a unique familiarity with their own locales. And policymaking structures should include representation from all stakeholders in the education process. The roles and responsibilities for each stakeholder should be carefully defined, with a clear demarcation of powers between each group.

However, it is evident from the study's results that policymakers currently work in isolation, without any meaningful input from policy-implementers. In addition, there is a lack of communication and co-ordination between stakeholders at various levels of the education system, and this promotes inefficiencies. All stakeholders must therefore participate in the decision-making process. This will promote a sense of belonging, and increase the willingness to work towards the successful implementation of education-related laws.

Another important finding from this study was the strong opinion presented by Kuwaiti official influencers that qualified local professionals, rather than overseas entities, should be the ones to evaluate the Kuwaiti education system for recommended improvements. They reasoned that homegrown experts would have a deeper comprehension of the subtleties in Kuwaiti culture, and would therefore find more appropriate solutions to any particular problems.

The study also found that there was a lack of accountability for the oversight of education-related laws. It suggests that the MoE should enable a mechanism where lower ranks

in the education system are accountable for ensuring the successful implementation of education policy. And MoE leaders themselves must be held responsible for achieving community goals by establishing a multi-lateral accountability structure between politicians, leaders and teachers. Furthermore, the results imply that the Supreme Education Council should have a special law that supports the supervisory role of the MoE to evaluate the implementation process.

Prior studies of educational law have revealed that knowledge of the existing laws is a prerequisite for the effective and efficient formation and implementation of new laws (Findlay, 2007; Ndou, 2015). Therefore, educators must become fully acquainted with the education-related laws which they are currently responsible for following. To help accomplish this, annual advocacy and training should take place regarding the aims, objectives, and focus of education-related laws. It would also be wise to conduct feasibility studies concerning the implications of each education-related law in order to help smooth its implementation at all education levels. Furthermore, programs and activities should be developed which can enhance the analysis and interpretation of education-related laws.

And finally, it was evident in the study's results that stability within the educational system is directly linked to the establishment of a clear legal framework from which to govern it. The results also established the need for the State to set a clear, long term, strategic plan, free from the vagaries of ministerial whim, to guide and improve the education system in Kuwait. This plan must be constructed with the strong collaboration of school district leaders, principals, stakeholders, and community members. Additionally, there is a need to establish an effective information distribution system within the MoE, districts, and schools in order to provide the strategic plan with the lifeblood of relevant and timely local information coming from stakeholders in the field. This will allow the near real-time monitoring of the plan's effectiveness, along with a provision for making small adjustments, which could improve it on a micro and maybe even a macroscopic scale.

At the end, I believe that my next step is to write brief policies in areas of education related laws that need improvement such as teacher rights and student rights. Then, encourage educators, school administrators, parents, and all those concerned with the public schools to expand their influence by forming a partnership with lawmakers. Frequent, ongoing, personal contacts to discuss current issues with legislators will help bridge the gap between state legislative policymakers and education policy implementers and could improve the potential of



passage of new education- related laws.

### **Recommendations for Future Research**

Although, there is only limited research literature on education-related laws in Kuwait, the results of this study highlight several areas for future research that could further develop our understanding of education-related laws in Kuwait. First, future research might conduct a content analysis study to investigate the education-related laws that affect other educational environments such as higher education, special education, and private education. Moreover, a comparative case study should be undertaken to review studies conducted in other countries, such as the U.S., to determine whether the process surrounding the creation and implementation of education-related laws in Kuwait is atypical. Also, scholars should focus more closely upon how different actors, such as legislators, Ministers of Education, the judiciary, local and international professional association representatives, parents, and the media can impact the decision-making processes concerning education-related laws. Additionally, scholars should examine the legal knowledge of educational leaders and principals to determine their understanding of the existing education-related laws. In future studies, researchers should conduct a Delphi study, with legal and educational experts, to develop brief policies in areas of teacher, student, and parent rights.

Finally, if I were to begin this research project again, I would prefer to conduct it in two-stages, starting first with a qualitative study, and then following with a quantitative effort (i.e. a mixed-method approach). Alternatively, I suggest that a quantitative study be built upon the findings of this and other similar studies, to help provide an in-depth understanding of the processes surrounding education-related laws in Kuwait. For instance, future research should include a quantitative research study on the participation of education stakeholders in policymaking and its subsequent implementation within public schools. In the same vein, a quantitative study also should be conducted to investigate the attitudes of MoE leaders toward granting more authority to schools as a preparatory step towards decentralization.

### **Dissertation Summary**

This study explored the education-related laws of Kuwait, in light of the broader context of educational law. It found that the process of creating and implementing education-related laws

has been constantly evolving since the establishment of Kuwait's first parliament in 1963. The Kuwait Constitution makes constitutional guarantees of the right to education, which provides the highest level of protection that can be accorded. Over the course of the 54 years since the establishment of the National Assembly up until the time of this study, eight main laws were established that have affected the educational system in Kuwait. Six of these eight laws are directly related to education in all its provisions, and they include the following topics: compulsory education, MoE, literacy, public education, NCED, and the granting and allowances to the members of the MoE. Furthermore, two laws were passed that are indirectly related to education. These focused on the rights of the disabled and children's rights in general.

This study applied a qualitative approach to generate insights about the nature and extent of the existing education-related laws. Additionally, the study highlighted the complex nature of the process surrounding the formation and implementation of education-related laws, and the multiple influences which can also be involved. Data were collected using semi-structured interviews with twelve Kuwaiti official influencers; including parliamentary members, ex-Ministers of Education, and directors of general education. Based on the interviews, five major themes emerged: (a) the characteristics of education-related laws; (b) extant problems in the formulation of education-related laws; (c) the obstacles hindering implementation of laws; (d) the strong influence of actors on education-related laws; and (e) the current need for more effective education-related laws. Official and unofficial actors influencing education-related laws included legislators, Ministers of Education, the judiciary, representatives of both local and international professional associations, parents, and the media. Finally, the study suggested areas in educational-related laws which should be improved to help ensure that all stakeholder interests are protected (i.e. the rights of teachers, students and their parents). The study also reveals the need for legal action regarding the development of a State strategic vision to better maintain order and stability in the Kuwaiti educational system.

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## APPENDIX A

### PERMISSION TO CONDUCT RESEARCH



**Office of Research Compliance**  
 Institutional Review Board  
 North End Center, Suite 4120, Virginia Tech  
 300 Turner Street NW  
 Blacksburg, Virginia 24061  
 540/231-4606 Fax 540/231-0959  
 email [irb@vt.edu](mailto:irb@vt.edu)  
 website <http://www.irb.vt.edu>

#### MEMORANDUM

**DATE:** June 5, 2017 

**TO:** M. David Alexander, Ayeshah Ahmed Alazmi

**FROM:** Virginia Tech Institutional Review Board (FWA00000572, expires January 29, 2021)

**PROTOCOL TITLE:** IRB-Ayeshah Alazmi

**IRB NUMBER:** 17-574

Effective June 5, 2017, the Virginia Tech Institution Review Board (IRB) Chair, David M Moore, approved the New Application request for the above-mentioned research protocol.

This approval provides permission to begin the human subject activities outlined in the IRB-approved protocol and supporting documents.

Plans to deviate from the approved protocol and/or supporting documents must be submitted to the IRB as an amendment request and approved by the IRB prior to the implementation of any changes, regardless of how minor, except where necessary to eliminate apparent immediate hazards to the subjects. Report within 5 business days to the IRB any injuries or other unanticipated or adverse events involving risks or harms to human research subjects or others.

All investigators (listed above) are required to comply with the researcher requirements outlined at: <http://www.irb.vt.edu/pages/responsibilities.htm>

(Please review responsibilities before the commencement of your research.)

#### PROTOCOL INFORMATION:

Approved As: **Expedited, under 45 CFR 46.110 category(ies) 5,6,7**  
 Protocol Approval Date: **June 5, 2017**  
 Protocol Expiration Date: **June 4, 2018**  
 Continuing Review Due Date\*: **May 21, 2018**

\*Date a Continuing Review application is due to the IRB office if human subject activities covered under this protocol, including data analysis, are to continue beyond the Protocol Expiration Date.

#### FEDERALLY FUNDED RESEARCH REQUIREMENTS:

Per federal regulations, 45 CFR 46.103(f), the IRB is required to compare all federally funded grant proposals/work statements to the IRB protocol(s) which cover the human research activities included in the proposal / work statement before funds are released. Note that this requirement does not apply to Exempt and Interim IRB protocols, or grants for which VT is not the primary awardee.

The table on the following page indicates whether grant proposals are related to this IRB protocol, and which of the listed proposals, if any, have been compared to this IRB protocol, if required.

*Invent the Future*

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY  
*An equal opportunity, affirmative action institution*

**APPENDIX B**  
**IRB APPROVAL CERTIFICATE**

VIRGINIA TECH VIRGINIA TECH VIRGINIA TECH VIRGINIA TECH VIRGINIA TECH

**Certificate of Completion**

This certifies that

*Ayeshah Ahmed Alazmi*

Has completed

**Training in Human Subjects Protection**

On the following topics:

Historical Basis for Regulating Human Subjects Research  
The Belmont Report  
Federal and Virginia Tech Regulatory Entities, Policies and Procedures

on

*May 5, 2015*



  
David Moore, IRB Chair

VIRGINIA TECH VIRGINIA TECH VIRGINIA TECH VIRGINIA TECH VIRGINIA TECH

## **APPENDIX C**

### **INFORMED CONSENT DOCUMENT**

#### **VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY Informed Consent for Participants in Research Projects Involving Human Subjects**

**Title of Project: Education- Related Laws from the Perspective of Kuwaiti Official Influencers: An Exploratory Study**

**Ayeshah Alazmi, Educational Leadership & Policy Studies, Virginia Polytechnic Institute and State University**

#### **I. Purpose of this Research/Project**

The purpose of this study is to explore education-related laws adopted by the Kuwait National Assembly since 1963. Based on Kuwaiti official influencers views, this study attempts to identify the nature, extent, strengths, weaknesses, and characteristics of existing laws and legislation. In addition, this study attempts to identify perceptions regarding the processes and influences that affect the formation and implementation of education-related laws. Finally, this study attempts to identify these same perceptions of changes to the education-related laws to better advance the constitutional goals of the State of Kuwait.

#### **II. Procedures**

We will meet at participant's office or at another mutually agreed upon place to conduct a recorded interview of 50-60 minutes. The interview will then be transcribed. The researcher will then make comparisons and write up findings. These findings will be incorporated into a final paper, which will be submitted as PhD dissertation. If you are not willing to be recorded, you are not eligible to participate in this study.

#### **III. Risks**

The risks associated with participating in this study are considered to be minimal.

#### **IV. Benefits**

There are no direct benefits for participation in this study. No promise or guarantee of benefits has been made to encourage me to participate.

#### **V. Extent of Anonymity and Confidentiality**

The researcher will keep all data collected confidential. While information gathered from the study may be used in reports, presentations, and articles in professional journals, the participant's name or any other identifying information will not be used. Any identifying information will be changed so that data will not be connected to the individual; pseudonyms will be placed of actual names. The researcher will transcribe the audio recording for the future analysis. Only the researcher will have the access to the audio recording. The audio-recorded interview will be destroyed after reporting of result is complete. The Institutional Review Board (IRB) at Virginia Tech may view this study's collected data for auditing purposes. The IRB is responsible for overseeing the protection of human subjects who are involved in research.

## VI. Compensation

Taking part of this study is voluntary; the participant will not be compensated for participating in this study.

## VII. Freedom to Withdraw

My participation in this study is entirely voluntary, and my refusal to participate will involve no penalty or loss of benefits to which I am otherwise entitled. Similarly, I am free to withdraw from this study at any time without penalty or loss of benefits to which I am otherwise entitled. If I choose to withdraw from the study, any information about me and any data that I have provided will be destroyed. I am also free to choose to not answer any question, or to not complete any activity, and this choice will result in no penalty or loss of benefits to which I am otherwise entitled.

## VIII. Participant's Responsibilities

I voluntarily agree to participate in this study. I have the following responsibilities: to participate in a one-on-one interview of no more than one hour, as described in Section II above.

## IX. Participant's Permission

I have read and understand the *Informed Consent* and the conditions of this study. I have also had all of my questions answered. I hereby acknowledge the above and give my voluntary consent:

\_\_\_\_\_ Date \_\_\_\_\_

*Signature of Participant*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_ Date \_\_\_\_\_

*Signature of Principal Investigator*

\_\_\_\_\_ Date \_\_\_\_\_

*Printed Name*

## IX. Questions or Concerns

Should you have any questions about this study, you may contact Ayesah Alazmi, Principal Investigator [aayeshah@vt.edu](mailto:aayeshah@vt.edu) or Dr. David Alexander, Departmental Unit Chair [mdavid@vt.edu](mailto:mdavid@vt.edu)

Should you have any questions or concerns about the study's conduct or your rights as a research subject, or need to report a research-related injury or event, you may contact the VT IRB Chair, Dr. David M. Moore at [moored@vt.edu](mailto:moored@vt.edu) or (540) 231-4991.



## **APPENDIX D**

### **INTERVIEW PROTOCOL**

In the beginning of the interview there was an introduction as to the definition of education-related laws (laws which have been adopted by the Kuwait National Assembly since 1963 in form of Constitutional statements, legislation and decrees that are related to K-12 public education).

The interview questions were:

1. How would you describe the elementary and secondary education system in Kuwait?
2. Can you identify the laws which directly and indirectly impact the education system?
3. What do you think about existing education-related laws?
4. Can you explain the process of their formation?
5. What do you think about the influences that affect the formation process of education-related laws?
6. Do you think that these laws are well implemented?
7. Do you think that the rules and regulations promulgated by the Ministry of Education comply with the existing legislation on education?
8. What do you think about the influences that affect the implementation process of education-related laws?
9. Do you think these laws ensure the rights of all stakeholders in education?
10. Do you think that the existing education-related laws cover all what we need to improve education? If so, what areas need improvement? Why?