#Breaking_The_Mold

Arab Civil Society Actors and their Quest to Influence Policy-Making

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Informal Advocacy: The Politics of Kuwait's New Mental Health Law

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INTRODUCTION

Since 2011, there has been a steady rise in the number of informal civil society initiatives in Kuwait. These informal groups vary in the extent of their participation and engagement in national politics. These groups deal with a variety of local and national stakeholders, depending on the issue. This study highlights one particular informal civil society organization, HumanLine, and the successful role it played in advocating for the passage of a new mental health law. The new law is a milestone in regulating the relationship between doctors and patients in terms of rights and duties (al-Baghli, 2019). This case study is divided into three sections. First, I provide an overview of the current civil society landscape in Kuwait and the legal framework governing it. Second, I analyze civil society's role in passing the new law in the Kuwait National Assembly (KNA). Last, drawing on work by Gaventa (2006) and interviews with key legislators and civil society representatives, I show how this effort created a transformative setting that drew attention to the issue of mental health.

BACKGROUND

Previous scholarship on formality and civil society draws a distinction between informal and formal civil society organizations. I define informal civil society as "the set of institutions, organizations and behaviors situated between the state, the business world and the family" (Anheier & List, 2005). In contrast, formal civil society consists of registered civil society organizations as well as organizations sponsored by the government and private sector. Formal and informal civil society, therefore, distinguishes associations and organizations registered and recognized by the state from those that are not.

Civil society organizations in Kuwait–particularly those led by youth–span this spectrum of formality. According to Ghabra (2017), from 2011 to 2013, informal civil society adopted a more inclusive, unifying approach that brought citizens from different backgrounds together, regardless of sect, citizenship status (including Kuwait's stateless bedoun population), or tribal (badu) or urban (hadhar) status. This approach of addressing different segments of society transcended state-defined relationships between the different actors, opening new channels of contestation among citizens, non-citizens, legislators, the government, and preexisting civil society organizations.

TIMELINE

Civil society organizations are governed by legislation that has been amended often since the first law regulating associational life was passed in 1962. At first, legislation required every association to register as a society or club overseen by the Ministry of Social Affairs and Labor (MOSAL). Three amendments followed from the late 1960s to the 1980s, modifying the state oversight and management of civil society. First, the KNA passed an amendment that banned registered civil societies from all forms of political activities, including participation in protests or political movements. As a result, the MOSAL has maintained the right to dissolve the board of any society if it engages in political activities. However, MOSAL cannot invoke this article equally against any registered society. Some societies abstain completely from political activities, while others are permitted without consequence. MOSAL uses the threat of dissolution as a tool to pressure registered civil society organizations when it wants to.

The second amendment passed by the KNA banned non-citizens from creating new societies. MOSAL also required all registered societies to re-register again under citizen names. The third and final amendment revoked non-citizen voting rights and banned their 'official' participation in registered civil societies established by citizens. Today, more than half of the population of Kuwait (non-Kuwaitis) cannot participate in registered civil societies. Non-citizens can only work as administrative staff (en.v, 2019).

Inequalities exist among Kuwaiti citizens, as well. Kuwaiti merchant and upper middle-class families dominate the boards of existing civil society organizations, giving new meaning to conceptions of 'Kuwaiti-ness' among citizens. Unwritten rules have begun defining who is Kuwaiti enough and who is not–reinforcing class and social divisions in the NGO sector itself. Haya al-Mughni (2001, p. 73) notes that leaders of these organizations "were recruited from the most prominent merchant families who controlled the country's major private companies… the fact that the [NGOs] comprised only the elite was sufficient to discourage lower and middle-stratum women from participating."

These divisions influenced the organizational activities, as well. According to al-Sharekh (2017, p. 264), "The leadership and membership of most NGOs were 'closed diwaniyas' for a small group clustered around the head of the organization, with little competition or renewal in posts." The institutionalization of these small clustered groups–each sharing the same socioeconomic and social status–has become widespread in the civil society sector.

The exclusivity of organized civil society organizations and the limiting amendments are, perhaps, two of the main factors that have led to the rise of informal and unregistered civil society groups. Working as "unregistered initiatives" allows these groups to join the civil society sphere without formal MOSAL registration and to claim their own agency in working among more inclusive, diverse groups.

These formal and informal groups have begun collaborating with each other when objectives overlap. An example of one such collaboration is a recent campaign that urged the KNA to adopt a new mental health law. This legislation is a product of serious collaboration. Many actors including the formal Kuwait Medical Association and Fawzia Sultan Healthcare Network and the informal HumanLine Organization (HLO), MindMe campaign, and Taqabal campaign–pushed for the legislation.

CIVIL SOCIETY ACTORS

For the purpose of this paper, I will focus on the cooperative effort between informal and formal societies. I will mainly address how the HLO led this collaborative effort and played a key role in the legislation's passage (Act4MentalHealth, 2018). The HLO is an unregistered human rights society that began its work in 2012. Their founding members are ex-members of the Kuwait Human Rights Society. In other words, its leadership has prior knowledge of how civil society organizations can be constrained by MOSAL. After founding the HLO, they adopted a flexible, project-based internal structure. This fluidity provided the organization with the flexibility to initiate several new campaigns and programs. One campaign in particular stands out: the Taqabal campaign, which aims to raise awareness about and challenge the stigma around mental health. The campaign facilitated further collaboration with the Ministry of Education, which then led to joint visits to both private and public schools to spread awareness on mental health and challenge the stigma surrounding discussion of mental health issues. However, since the HLO was not registered, they were often rejected by other formal governmental entities for potential collaborative projects or for joint prison visits (such as the National Council for Culture, Arts, and Letters and the Ministry of Interior).

STRATEGY AND TACTICS

The original draft for the new mental health legislation was proposed in the last "pro-government" parliament (2013-2016). Even though that particular parliament had little opposition due to a major boycott of the election, the draft did not move beyond the parliamentary committee to which it was assigned. This was mostly due to the lack of proactive MPs in the parliament who could actively work with civil society to push the legislation forward. The majority of the MPs were more interested in advocating a populist agenda and unconcerned with advocating for important social issues that would not gain traction in the media.

In 2016, the late Emir Sheikh Sabah Al-Ahmad Al-Sabah dissolved parliament and called for a new election. Any draft laws that were suggested by the incumbent MPs were dropped after the dissolution: laws would need to be proposed again once the next parliamentary term began. After nearly four years of boycotts, the opposition participated in this election for the first time.

The election resulted in a new, diverse parliament and a much different political dynamic (Diwan, 2016). Significantly, it contained the highest number of youth MPs under the age of 40 and several active MPs who had served in parliament previously. Immediately after the election, new MPs started proposing laws, policies and amendments. In late 2017, the government proposed a draft mental health law that was completely different in technical and medical terms compared to the one previously proposed in the last parliament. In the following section, I analyze the discursive and institutional practices that moderate how new laws are discussed and enacted in the KNA.

INFLUENCING FACTORS AND TRANSFORMATIVE MOMENT

In order to understand these dynamics, I borrow from Gaventa's (2006) power cube model (Figure 1). The power cube represents a matrix of different forms, spaces and levels. Visualizing power in this way reveals the interconnections between the different actors involved in the HLO case and how they operate in the Kuwaiti context. This framework will be applied to my analysis as it addresses the invisible and hidden power of politics in contrast to more visible and closed forms of power. It also reveals the ways in which power is unequally distributed among different levels and through different actors. These actors include legislators, government officials, the legislative committee consultants and employees, and formal and informal civil society organizations.

The 'power cube': the levels, spaces and forms of power

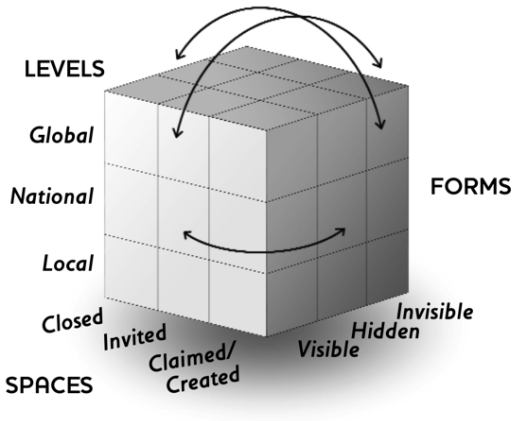

Figure 1. The "power cube": levels, spaces, and forms of power (Gaventa, 2006, p. 25)

Understanding the structure of power in a particular local context can provide important insight into how actors mobilize for political change. In this particular case, the government proposed a draft law in late 2017 and moved it to the Health, Social, and Labor Affairs Committee in the KNA. Each committee in parliament has a team of consultants and employees who work with MPs to deliver a comprehensive report about the subject of any draft law. The report addresses constitutional issues, rewrites proposed legislation, and invites other actors involved–including the government–to participate in committee deliberations. However, the process is not always inclusive. A 'hidden' power (Figure 1) creates certain barriers and controls among committee participants. These discussions happen behind closed doors, and committee votes are not recorded. Hence, it is a 'closed' space. Senior MPs and staff on the committee are responsible for opening up draft laws to broader audiences–inside and outside the KNA–in order to solicit their feedback or assess public support.

In this case, the committee invited representatives from the Ministry of Health and the Kuwait Medical Association (a registered civil society organization) to participate in its deliberations. Because doctors representing the Ministry of Health had been working with the HLO–even collaborating in drafting the previously discarded version of the draft law–the likelihood of new legislation increased. This formal-informal collaboration opened a new channel of communication among top decision-makers through the Ministry of Health's doctors. These discussions later led the committee to invite representatives from the HLO, the MindMe campaign, and Taqbal to the table to join the discussion. After the committee moved to include voices from the both formal and informal civil society sector, a new consensus regarding the need to act emerged.

POLICY OUTCOME

The committee's shift from a closed, controlled space into an "invited" space made what was previously hidden visible. This provided various civil society actors insight into how agendas were being shaped and how the law was being redrafted. Civil society's temporary presence in a previously exclusive space shifted how informal civil society organizations were perceived by the KNA. The diverse group of participants–including legislators, consultants, doctors and activists–opened the committee space.

The administrative office of the committee, through their work alongside legislators, generated the opening of a "policy window." This was a transformative moment, whereby the HLO as an informal civil society organization claimed their political voice and agency for the first time. They also successfully collaborated with other informal and formal groups to lobby other legislators once the draft law moved out of the committee and into the full session. During voting, a number of legislators acknowledged the role of the informal civil society sector by directly acknowledging their contribution to the process of drafting the law.

CONCLUSION

These collaborative efforts can promote the adoption of inclusive approaches to policy challenges and allow informal civil society organizations to reclaim their voices. The case of the HLO also shows how different civil society groups can join, consolidate and harmonize their work. Younger generations are already challenging conceptions of 'Kuwaiti-ness' through their work with these informal groups. This case study describes a case of the transformation of a local civil society organization and its efforts to bring new constituents to the policy-making process.

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BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.
Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

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