

AMERICAN UNIVERSITY OF BEIRUT

INSTITUTIONAL ISOMORPHISM BETWEEN LEBANON AND
EUROPE – MYTH OR REALITY OF A LEGAL ALIGNMENT?

by
CHRISTOPHER JAMES BANDERS

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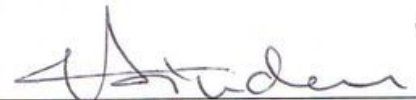
Approved by:

Dr. Antonio-Martin Porrás-Gomez, Assistant Professor
Political Studies and Public Administration



Advisor

Dr. Coralie Pison Hindawi, Assistant Professor
Political Studies and Public Administration



Member of Committee

Dr. Samer Frangie, Assistant Professor
Political Studies and Public Administration



Member of Committe

Date of thesis defense: April, 22, 2016

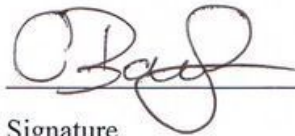
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AN ABSTRACT OF THE THESIS

Christopher Banders for Master of Political Studies and Public Administration
Major: Political Science

Title: Institutional isomorphism between Lebanon and Europe – Myth or Reality of a Legal alignment?

This research aims at fostering the reflection of the degree of legal alignment between the traditions of the European Union and Lebanon, partner state of the European Neighbourhood Policy (ENP) and Member State of the Union for the Mediterranean. It purports to examine how recent legislative changes have occurred in Lebanon. In this vein, this paper will examine the extent to which European cooperation and influence contributed to changing existing legal domestic realities within the Lebanese Republic, inducing and inspiring reforms on the level of national law, in order to establish legal frameworks and traditions more aligned with those of the EU using the institutional approach of Paul DiMaggio and Walter Powell¹.

The research question that shall be answered in the course of this paper, is to assess the extent to which Lebanon adopts norm that are in compliance with the EU policies of cooperation, creating a larger legal vision in the area of the Mediterranean. Providing deeper research and shedding light onto the impact of this policy of Cooperation within Lebanon will allow to increase the visibility and the interest in the study of the Euro-Mediterranean relations. Therefore the question that shall be answered in the course of this paper is to examine to “*what extent the European Agreements of international cooperation in Lebanon constitute an isomorphic vector for legal alignment, implementing in the long run a more harmonized legal framework in Lebanon in accordance with European Laws?*”

Preliminary findings of this research already demonstrate that the processes of legal alignment in Lebanon are partially existent. However it seems that the theory of institutional isomorphism in the context of Lebanon fails to describe the processes of legislative homogenization. This development raises the question of the degree of applicability of this theory to an empirical reality that mainly attempts to explain the process of legal alignment among organizations outside of the scope of private sector institutions.

¹ Cf. DiMaggio, P. J., & Powell, W. (1983). *The iron cage revisited : institutional isomorphism and collective rationality in organizational fields* (April ed., Vol. 48). Yale: American Sociological Review

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ABBREVIATIONS

AFESD	Arab Fund for Economic and Social Development
AAAID	Arab Authority for Agricultural Investment and Development
ARLEM	Euro-Mediterranean Regional and Local Assembly
ALF	Anna Lindh Foundation
CA	Cour d'appel / Appeal Court
ECHR	European Court of Human Rights
EBI	European Investment Bank
EU	European Union
EMP	Euro-Mediterranean Partnership
EMPA	Euro-Mediterranean Parliamentary Assembly
ENI	European Neighbourhood Instrument
ENP	European Neighborhood Policy
ENPI	European Neighbourhood and Partnership Instrument
IBRD	International Bank for Reconstruction and Development
IDB	Islamic Development Bank
ISF	Internal Security Forces
KFAED	Kuwait Fund for Arab Economic Development
KfW	Kreditanstalt für Wiederaufbau (Reconstruction Credit Institute)
LECORVAW	Lebanese Council to Resist Violence Against Woman
OFF	Order for Protection
TEU	Treaty of the European Union
TFEU	Treaty of the Functioning of the European Union
TGI	Tribunal de Grande Instance / Tribunal of First Instance
UFM	Union for the Mediterranean

CHAPTER I

INTRODUCTION

“The European Union is, at its core, a project of Kantian peace, an attempt to create a peaceful union of European states that had been at war with each other for many centuries, but whose orgy of violence in the first half of the twentieth century left Europe exhausted. The Marshall Plan had reawakened hope for European development and the formation of the European Community in the postwar years created a vision of a European ideal that had been eclipsed by the fire and ashes of war.”²

The creation of the European Union was and still is a laborious ongoing process of political, economic, cultural and legal harmonization between the different Member States. The success behind these supranational institutions lays in its coercive force of creating an alignment between countries that have, ever since history, been at war against one another. During the first half of the 19th century the European continent gave birth to a battleground of two of the biggest wars in human history. The European institutional framework has laid down the path not only for a political, economic, social, cultural and legal integration, but also contributed to the harmonization of century old conflicts among European countries. Over the past 60 years the EU has worked on the perpetuation of its *acquis communautaire*, maintaining peace and security within its domestic borders, creating therefore a continent of economic prosperity, political stability and social equality. The respect of human rights and the implementation of institutions also contributed to maintaining this fragile equilibrium among the European peoples. However, the success of the EU uniquely benefited the countries inside its geographical borders and excluded countries that have historically been an integral part of the European concert of nations.

It may be true that European countries are no longer at war against each other, and that the socio-economic developments have created a high living standard for its population. However, the advent of these European institutions, especially its geographical limits has posed the question of

² David, HELD; Kyle McNally, “Touching the fuzzy core” in *The European*, published 7th of February 2014, <http://en.theeuropean.eu/david-held/7981-european-identity-a-way-of-solving-problems>

the neighboring countries of the EU that still remain in a fragile political and economic situation, benefiting barely from this “*European Dream*”.

In this vein, recent developments in the European external policy have started to establish different forms of international cooperation for non-EU countries, in particular the countries of the Mediterranean and Further Eastern European countries. Seen from the outside as the holy land of economic growth, democracy, social equality, the respect of human rights, the liberty of free trade and circulation, the EU has become one of the preferred countries for migratory movements from all around the world. Therefore the idea of the EU external policy is not to continue the seemingly never ending vague of EU integrations, but rather to lay down the foundations for an international alignment of the neighboring countries toward European legal, political, social and economic achievements. The advent of this policy of cooperation constitutes the basis of this research, fostering an attempt to contribute to explaining the forces that work on “*exporting*” European legal traditions, leading hence to the creation of a more harmonized Euro-Mediterranean region.

This research will specifically analyze and assess the influence of these EU policies with regards to the idea of legal harmonization in Lebanon. The choice of the latter is explained by its geographical interesting situation and its political, legal and religious diverse character which make Lebanon an intermediate country between purely “*Arab*” or “*Non-EU country*” and European or Western societies. Lebanon, together with Tunisia, may be one of the most “*Europeanized*” Mediterranean countries, but also remains largely influenced by its Arab neighbors. Therefore this research aims at fostering the reflection of the legal traditions of the European Union (EU) and its member states influence on recent legal reforms in Lebanon, partner of the European Neighborhood Policy (ENP) and Member of the Union for the Mediterranean (UfM). This paper purports to describe and explain how recent legislative acts have changed, examining the extent to which European influence has contributed to this evolution, by inspiring the creation of a new legal framework, more aligned with EU rulings.

Lebanon’s partnership with the EU can be traced back to the year 1977. However, a veritable agreement of EU cooperation in Lebanon and the Mediterranean took place with the Barcelona Declaration of 1995. In addition to this, a bilateral Euro-Mediterranean agreement has been signed between EU and Lebanon in 2006, foreseeing a cooperation in different areas as diverse as reforming the justice system toward greater efficiency, effectiveness, and independence of the judiciary, improving the protection of human rights and good governance, implementation of

international norms on environmental health, economic and scientific cooperation, to name only a few. These actions may be identified as part of a silent and hopefully continuous push for legal change in Lebanon.

This research constitutes an attempt to shed some light on the implementation of these actions of legal alignment, assessing whether legal change has occurred in Lebanon, and to evaluate the degree of harmonization towards European norms, that may have in the long run important consequences. In this vein, this paper is a critical analysis of the process of legal alignment and change within Lebanon using, the theory of institutional isomorphism of Paul DiMaggio and Walter Powell³. According to those two authors, organizational fields may display in their initial stage a considerable degree of diversity towards other organizations. However, once an organization starts becoming well established, it tends toward homogenization with other organizations exerting a certain influence upon them.

In order to assess this process of homogenization, DiMaggio and Powell define four institutional elements that constitute the basis of any empirical investigation in the organizational field. Firstly, they mention the need for interaction between different actors in the field, in order for homogenization to occur. Secondly, various interorganizational structures of domination and coalition have to be existent in order to contribute to a more aligned institutional behavior. Thirdly, there has to be an increase of information, allowing the organization to act upon. Fourthly, the different participants have to develop a mutual awareness along the process of harmonization pursuing the enterprise of a common goal. The institutional theory that best depicts these processes is institutional isomorphism. In this vein, it is important to look at the similarities and differences between the EU and the Lebanese legal framework and the institutions that have been established among them. By addressing the question of the degree of imitation and/or independent development under similar constraints in the Lebanese change of law this paper will evaluate whether institutional isomorphism can be found among this Euro-Lebanese policy of cooperation. In institutional theory, we can distinguish three different types of isomorphism according to Paul DiMaggio and Walter Power, and four according to Jens Beckert, in his work *“Institutional*

³ Cit. op. DiMaggio, P. J., & Powell, W. (1983)

Isomorphism revisited".⁴ Hawley defined isomorphism as "a constraining process that forces one unit in a population to resemble other units that face the same set of environmental conditions".

The first three types of institutional isomorphism are common to all three authors, however the fourth one is clearly set apart by DiMaggio and Powell, and included in Beckert's approach. The first type of institutional isomorphism, coercive isomorphism, is characterized by an external actor exerting power on the institutions in order to achieve some sort of alignment and harmonization of the legal rulings of the dominant organization (*coercive isomorphism*). In some circumstances the change within the organization is due to the direct influence of a government mandate, forcing the institution to adopt norms in order to become more aligned to the norms of the dominant organization. A second form of institutional isomorphism, relies on the factor of attraction and professionalization as being the principal vector of change (*normative isomorphism*). In this lens, institutions change and become similar due to the attractiveness of their already existent organizational structures. This is explained by the idea of "*Voluntary imitation*" found in Beckert's theory, which results in the fact that rather than being "*pushed toward*" a goal the organization is "*pulled toward it*". The reason behind this attraction lays in the fact that actors can use models that have already been formerly tested by other institutions, allowing them to choose the model that suits them the best. Another theory that explains institutional isomorphism is the idea of uncertainty. Uncertainty can push organizations to adopt similar norms that they think are more adequate and effective (*Mimetic isomorphism*). The difference between mimetic and normative isomorphism lays in the absence of professional institutions. In both cases organizations are being "*pulled*" toward a certain model. However, in the case of mimetic isomorphism "*Imitation is motivated by disorientation rather than by conviction that the model to be imitated is superior*".⁵ Hence the main vector for change lays in the "*standard responses to uncertainty*" that is considered a "*powerful force that encourages imitation.*"⁶

A last form of institutional isomorphism in the theoretical framework of Beckert's is competition (*Competitive isomorphism*). This vector of isomorphic institutional change has clearly been set apart by Paul DiMaggio and Power, who distinguish between institutional isomorphism and competitive isomorphism, including in the realm of institutional isomorphism the three above

⁴ Beckert, J. (2010). Institutional Isomorphism Revisited: Convergence and Divergence in Institutional Change. *Sociological Theory*, 28(2), 150-168

⁵ Ibid.

⁶ Cit. op. DiMaggio, P. J., & Powell, W. (1983)

mentioned vectors of coercion, mimicry and normativity. However, this research will partially include the effects of competitive isomorphism as being an important vector for institutional change. According to this theory institutions become more aligned due to the external pressure of competing organizations, forcing the less well adapted institutions to align their procedures and norms to those of the market dominant organizations. This theory is particularly interesting when approaching it to the processes of international economic harmonization of commercial procedures which are driven by the capitalist need for competition, forcing organizations to homogenize their norms to those of the dominant institutions in the market. This vector is specifically interesting as it constituted one out of the two founding forces of the European legal harmonization that focused primarily on establishing an Economic Trade Union, relying hence on the economic forces of legal alignment and competition.

Using this theoretical framework and focusing in particular on the idea of European Agreements of international development, this research contributes to increasing the interest in this specific academic field, which has since its creation been a rather under-researched field and remains still quite unknown to academic scholars. Providing deeper empirical research and shedding light onto the impact of this policy in Lebanon will allow to increase the visibility and the interest in the study of the Euro-Mediterranean relations and deepen the processes of institutionalization of non-European countries. Another goal of this research is to suggest improvements in the way the EU attempts to successfully implement its policies of cooperation, in particular the ENP, and the way the partner countries can improve their legal frameworks.

Within this research the hypothesis that is addressed is to assess the extent to which institutional isomorphism may encounter a certain number of difficulties regarding its implementation and attempt for harmonization if applied by a western external organization. The idea is that non-western societies have suffered directly from the imposition of western models of democracy and economy, throughout the periods of colonization or indirectly by the influence of external mandates and protectorates which has created to a certain extent a rejection of external intervention. Their recently acquired independence, and the development of a certain reticence regarding the imposition of western thought and political models, are vectors that may play an important role in the way institutional isomorphism can be empirically applied.

The methodology, followed in this research seeks at comparing documents of a theoretical nature with the empirical reality of the latter. In this vein, various sources will be used in order to assess

the degrees of isomorphic behavior in Lebanon. A first set of sources are of a purely academic and scientific nature, constituting the basis for explaining recent developments and describing the advent of the different policies of Euro-Mediterranean cooperation. These sources will contribute to providing a general overview of the Euro-Mediterranean policies and increase the interest in the field. Furthermore, the doctrinal debates regarding the difficulties of the current legal and political obstacles is found among these sources. A second reference are the legal sources themselves, such as the treaties, declarations or reports of the EU, that helped create and adopt the various Euro-Mediterranean institutions and set up the framework for the legal rulings that shall contribute to harmonizing the existing Lebanese legislation. A last source of documentation is found among the Lebanese norms, which will shed some light on the actual legal process of alignment or rejection of the adoption of EU norms. Combining all these different sources will lead to an provide an overall assessment of the processes of legal alignment by linking the theoretical framework to the empirical reality.

Therefore the question that shall be answered in the course of this paper is to examine to “*what extent the European Agreements of international cooperation in Lebanon constitute an isomorphic vector for legal alignment, implementing in the long run a more harmonized legal framework in Lebanon in accordance with European Laws?*”

In order to answer the above mentioned question, three main chapter will successively examine the idea of institutional isomorphism in Lebanon. A first chapter will focus on the History of European Cooperation and the institutions that have been created with the attempt to implement European values in Lebanon. The need to describe these different evolutions will allow us to examine the forces of the EU and its Member States with regards to their impact as isomorphic institutions. The European-Lebanese organizations are, characterized by an increasing push for institutionalization of economic, social and legal relations between Lebanon and the Members States of the EU, which may constitutes a new form of isomorphic institutions capable of enforcing a legal harmonization in Lebanon (Chapter Two).

In Chapter two, this paper will address the actual degree of legislative change in Lebanon, starting with a preliminary introduction of the Lebanese normative environment, its influences and legal sources. Looking at the origins of Lebanese Law, contributes to examine the historical institutional influence in Lebanon, evaluating hence the influence that different external organizations had within the creation of Lebanese Laws. However, the main focus of this Chapter will remain the

analysis of the legal change of current Lebanese norms, with a special focus on the legislative productivity, taking into account the normative changes that occurred during the period of 2013 to 2015. This period has not been chosen randomly, but is explained by its alignment to the second Action Plan between Lebanon and the EU that covers exactly this period. The Action Plans are an interesting source to assess the legal alignment of Lebanese laws as they sum up all actions that shall be implemented by Lebanon during the above mentioned period according to the benchmarks and obligations posed in the Euro-Mediterranean agreement. This action plan combined with a list of other documents resuming the different projects to be developed and implemented by Lebanon are the main source of comparison between Lebanese and European laws (Chapter Three).

A last chapter will evaluate the success or failure of the international Cooperation of the EU in Lebanon, linking it to the findings in Chapter One and Two. This Chapter will focus on providing explanations and reasons for the development of legal cooperation between Lebanon and Europe, evaluating the overall situation of institutional isomorphism. Different critiques of the functioning of the ENP and to some extent the UFM will be used in order to provide suggestions for the EU on how to improve the way their Agreements of Cooperation may be improved and explain possible reasons for a non-legal-alignment (Chapter Four).

CHAPTER II

THE RAISE OF EUROPEAN COOPERATION IN THE REGION OF THE MEDITERRANEAN

« Une nation est une âme, un principe spirituel. Deux choses qui, à vrai dire, n'en font qu'une, constituent cette âme, ce principe spirituel. L'une est dans le passé, l'autre dans le présent. L'une est la possession en commun d'un riche legs de souvenirs ; l'autre est le consentement actuel, le désir de vivre ensemble, la volonté de continuer à faire valoir l'héritage qu'on a reçu indivis. » (Ernest Renan, « Qu'est-ce qu'une nation, » p. 31)

Understanding the institutional isomorphic forces of the European Agreements of Cooperation necessitates a global understanding of the different organizations functioning as a guiding vector for possible legal changes. Institutional modifications need a strong organization that either can enforce their “*vision of the world*” upon smaller and weaker institutions (coercive isomorphism), constitute a role model that inspires the adoption of similar institutions (normative isomorphism), fills in the gaps of uncertainty by imitating organizations that seem to suggest solutions for similar problems (mimetic isomorphism) or are drawn closer together by the need for competition as a legal push for harmonization (competitive isomorphism).

This Chapter will successively present the historic evolution of European institutions that have adopted treaties, declarations and agreement, seeking at inspiring other organizations to follow a similar path of legal functioning. In this vein, this chapter examines the extent to which different forms of institutional isomorphism can be found within the creation of the Euro-Mediterranean cooperation, setting up different institutions and agreements, inspired by a common desire of establishing a climate of stability and prosperity.

A first section will deal with the establishment of the Declaration of Barcelona, and the creation of a wider vision of the Euro-Mediterranean as a whole, assessing the institutions and forces that have been created in order to produce legal harmonization (A).

Following the enlargement of the EU, a different set of agreements has seen the day, enhancing European values throughout bilateral agreements creating a larger vision of the Euro-Mediterranean, bringing the different nations closer together (B).

A. From the Euro Mediterranean Partnership to the Union for the Mediterranean

The end of the Cold war has changed the entire World Order and created the need for creating a more homogenized World society. The Euro-Mediterranean relations have also changed substantially during the years following the destitution of the former Soviet Union, increasing their external relations with the countries of the Mediterranean. In this vein, a new vision of the Euro-Mediterranean was born in 1995, constituting the beginning of a new European policy in the Region and expressing the desire to harmonize the relations between Europe and non-European Countries (1). The different goals and objectives of this new policy shall contribute to the creation of a Union of the Mediterranean, and a harmonization of the relation of all Member States, creating a more peaceful and secure Region (2). Various different organizations have therefore been created, enhancing hence a new institutional framework of Euro-Mediterranean cooperation that hopefully will be fruitful in a foreseeable future (3)

1. Genesis of a Euro-Mediterranean Region of prosperity and peace

The rise of a veritable Euro-Mediterranean Partnership (EMP) took place during the mid-nineties, initiated during a Ministerial Conference in Barcelona on November 27th and 28th in 1995, known as the Barcelona Declaration. This event constituted an important step in the EU's external relations toward the establishment of a common foreign policy in the area of the Mediterranean. The EMP contributed to a shift from bilateral economic agreements between the European Member States and their Mediterranean partners, toward a veritable multilateral approach. It was the first time in history that the 15 Member States of the EU and the 12 Mediterranean countries gathered together to discuss common political, economic and social questions, setting up a Declaration of International Cooperation. The idea is quite similar to the construction of the EU itself which agreed in its preamble to “*ensure the economic and social progress of their countries*

by common action to eliminate the barriers which divide Europe” and to “lay the foundations of an ever-closer union among the peoples of Europe”⁷.

This idea of creating a union among the peoples of Europe has already been expressed by the philosopher Ernest Renan who believed that:

« Les nations ne sont pas quelque chose d'éternel. Elles ont commencé, elles finiront. La confédération européenne probablement, les remplacera. Mais elle n'est pas la loi du siècle où nous vivons. »⁸

Even though Renan deals in his essay “*Qu'est-ce qu'une nation?*” of the question of the reasons and forces that create and form a nation. Nevertheless, we can use his quotation and transfer it to the example of the Euro-Mediterranean agreements of cooperation, creating a common sense of belonging to a same Euro-Mediterranean population, maybe not a nation as Renan put it, but a civilization bound together by a common history and past, which incited consequently these recent developments of setting up more specific agreements and declarations of cooperation.

In this vein, the Declaration of Barcelona is an attempt to harmonize those economic, political and social differences between the North and the South and create links of interdependence between countries that have historically and culturally always been mutually influenced by one and another. The objectives of this EMP are to gather together all Mediterranean Countries under one common umbrella, allowing hence changes within the entire Region of the Mediterranean to occur. This desire is highlighted by the initial statement of the Declaration of Barcelona that wishes to turn:

“The Mediterranean basin into an area of dialogue, exchange and cooperation guaranteeing peace, stability and prosperity [that] requires a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between cultures.”⁹

⁷ Treaty of Rome, 1957, Preamble

⁸ Renan, E. (1882). *Qu'est-ce qu'une nation?* Paris: Calmann Lévy, p. 33

⁹ Declaration of Barcelona, 1995, Preamble

This vision of the Euro-Mediterranean Union is also reflected in a speech given by the president of the European commission during a conference at Bologna on May 17th of 2003. The president of the Commission, Prodi highlighted in his speech the need for “*peace, stability and prosperity*” and the goals of promoting a “*greater understanding between cultures*”.¹⁰ These indicators can also be approached to the theory of institutional isomorphism and the forces that are needed to implement any type of substantial change. One of the elements that is needed lays in the idea of mutual awareness that can produce a certain change or adopt a policy that is heading toward a common goal. This Declaration contributes to enforcing this common desire of creating a mutual awareness of current political, legal and socio-economic questions in the region by uniting the common forces of the Euro-Mediterranean countries in one Declaration of mutual cooperation. A second element that is needed for institutional isomorphism to take place is the idea of interdependence. By establishing the EMP there is no doubt that deeper links of interdependence have been created, setting up the foundational pillars for institutional isomorphic actions. Organizations need to interact and follow the basic principles of any type of physical laws of action and reaction in order to be capable to provoke any type of change. Hence the importance is to be in presence of such an institutional force, which is the case in this specific Declaration of Barcelona. This phenomenon of interdependence and interaction has also been confirmed by another scholar, Esther Barbé who affirmed that:

“Analysts and politicians have [already] pointed out, [that] interdependence between the EU and its Mediterranean partners in the 1990s is a reality”¹¹

Mutual awareness and interaction are therefore two factors of organizational theory that are existent in the realm of this specific policy constituting hence the basis of answering the question of possible legal alignments resulting from it. However before delving deeper into the analysis of isomorphic phenomenon, we will need to examine more in detail the content of this agreement.

¹⁰ Prodi, R. (2003). Construire un espace Euro-méditerranéen. *Confluences Méditerranée*, 46(3), 35-38

¹¹ Barbé, E. (1996). The Barcelona Conference : Launching pad of a process. *Mediterranean Politics*, 25-42

2. Objectives and goals of the EMP and UFM

The idea of the Euro-Mediterranean Partnership, later on the Union for the Mediterranean (UFM) is to promote stability and prosperity within the Mediterranean, increase the relations between the North and the South, as well as creating links among countries from the South itself, enhancing hence a socio-economic integration in the Mediterranean and to facilitate socioeconomic development.

The initial EMP, and later on the UFM established three main objectives of their Partnership or baskets¹² : a political and security basket, an economic and financial basket and a social, cultural and human basket. The political and security basket, contributes to defining a common area of peace and stability by reinforcing the political dialogue among the Member States. And therefore foresees actions such as the establishment of regular dialogues “*based on observance of essential principles of international law*”, to “*develop the rule of law and democracy in their political systems, while recognizing in this framework the right of each of them to choose and freely develop its own political, sociocultural, economic and judicial system*” and to attribute “*favorable consideration, through dialogue between the parties, to exchanges of information on matters relating to human rights, fundamental freedoms, racism and xenophobia.*” The economic and financial basket, aims at pushing for continuous economic liberalization in order to create a free trade area. Actions that shall be implemented in this section are as varied as the development of policies based on the principles of the market, the respect of the environment and sustainable economic development. Once again the idea of interdependence is being highlighted by the Declaration, especially in the area of environmental protection that needs a regional approach and an increased cooperation among the Partners of the Mediterranean. A last basket deals with the social, cultural and human aspect of the Declaration, promoting different cultures by means of social, cultural and religious exchange, contributing to the development of a “*greater understanding and closeness between the peoples.*”

These objectives and goals highlight once again the formerly mentioned vectors of interdependence and mutual awareness, adding the component of information exchange. The idea is that by creating this Declaration the different Members also seek at exchanging information that shall lead to a closer cooperation and with a time a more aligned political, economic and cultural

¹² Ibid.

alignment. A last element that needs to be assessed is the organizational need for material structures capable of implementing these changes.

3. Institutions and functioning of the UFM

The Paris summit of 2008 constituted a renewal of the initial Barcelona Declaration of 1995, upgrading and reinforcing the relations among the Members of the UFM. One of the biggest reforms of this summit has been the creation of a specific institutional architecture that shall contribute to:

“Achieving the political goals of the initiative, especially reinforcing inclusive co-ownership, upgrading the political level of EU-Mediterranean relations and achieving visibility through projects.”¹³

A total of four institutions have been set up during the course of this reform:

(1) The first institutional reform resulted in the creation of a system of co-presidency. The co-presidents hold the task of assuming the presidency of the Partnership as a whole. It is composed of one president from the EU and another from the Mediterranean partner countries. However there are considerable asymmetries between the election of the EU President and the President of the Mediterranean countries. While the EU president is appointed by rotation for six months and the non-EU president is elected by consensus for a non-renewable period of two years. This specificity is due to the political problems of a possible Arab refusal to have an Israeli President. The main tasks of the Co-presidency will be to negotiate and agree on a common agenda that shall conduct necessary consultations with all partners, adopt common conclusion and organize meetings and summits whenever necessary with regards to ensuring the good functioning of the Partnership.

(2) A second institution that has been established is the UFM Governance. The UFM Governance is ensured by UFM Senior Officials, who discuss regional issues, guide policies and actions of the organization and label the projects submitted to it. Biennial summits will endorse the strategic priorities of the UFM passed by the Ministers of Foreign Affairs that shall contribute to a mutually

¹³ Barcelona Process: Union for the Mediterranean ministerial conference Marseille, Final Declaration, Marseille, 4 November 2008 15187/08 (Presse 314)

beneficial prosperity of all. Each Member of the UFM has an equal vote, and decisions are usually made by consensus.

(3) In order to assist the Senior Officials in their work, a Joint Permanent Committee that is based in Brussels has seen the day with the reforms in Paris. Its main tasks are to ensure an appropriate follow up, assisting the Senior Officials in preparing their meetings, replacing the former Euromed Committee. The Joint Permanent Committee may also act in the event of exceptional situations that require a fast consultation of the Euro-Mediterranean partners.

(4) The creation of a Secretariat of the UFM is an even more recent development, inaugurated in 2010. The Secretariat is in charge of targeting the operational follow-up of the ministerial meetings, to identify and monitor the implementation of concrete projects for the Euro-Mediterranean Region, to search for financial partners and coordinate various platforms of dialogue. The secretariat has a separate legal personality with an autonomous status with regards to the other institutions. It is composed of one Secretary General and five Deputy Secretaries General who are appointed by consensus for a period of three years, renewable for a maximum of three more years. Moreover the secretariat will include seconded officials who are appointed by the Secretary General in cooperation with the Deputy Secretaries General on the basis of a competence and geographical based balance.

These four institutions are the direct result of the Barcelona reform in 2008. However three subsidiary institutions have been created and work in close cooperation with the UFM, reinforcing the degree of Euro-Mediterranean cooperation:

(1) A Euro-Mediterranean Parliamentary Assembly (EMPA) has been set up although it is not an entirely new institution inside the Euro-Mediterranean Partnership framework, due to its former establishment on December 3rd of 2003. The EMPA gathers together parliamentarians from the Euro-Mediterranean countries and has a total of four permanent committees. The Assembly shall contribute to increase the democratic legitimacy of the Partnership, even though its current parliamentary dimension needs to be consolidated further in order to be better articulated with the other institutions of the UFM.

(2) The Euro-Mediterranean Regional and Local Assembly (ARLEM) is a second parliamentary institution that directly has been influenced by the Euro-Mediterranean Conference in Marseille on November 2008. The goal of this assembly is to coordinate between the local and the regional representatives of all 43 countries in the UFM and the EU. The Assembly has at its head a co-

presidency that equally represents the Mediterranean partners and the EU, the co-president is elected for a period of two and a half years

(3) The Anna Lindh Foundation (ALF) is a third subsidiary institution worth mentioning which purpose is to:

“Bring people together from across the Mediterranean to improve mutual respect between cultures and to support civil society working for a common future for the region”¹⁴.

The Anna Lindh Foundation tries to establish a dialogue between the cultures, having its headquarters in Alexandria, Egypt. This organization constitutes a network for the civil society of Euro-Mediterranean organizations aiming at promoting intercultural dialogue and mutual understanding.

To sum up these institutional reforms 2008 and the existence of three subsidiary organizations, the foundations of an inter-organizational structures have been laid down which may be able to contribute to the implementation of the commonly agreed goals. Added to the idea of mutual awareness, interaction and the increase of information, all four forms of organizational structures are existent currently in the framework of the Euro-Mediterranean cooperation. A second step of this research will consist in evaluating the actual impact of these institutions in terms of institutional isomorphism. However, it is necessary to examine a second institutional Euro-Mediterranean organization of cooperation in the Region, the European Neighborhood policy.

B. European Cooperation rather than EU enlargement

The UFM and its experience has led the EU to rethink its strategy of stability and prosperity in the Mediterranean. Therefore a new instrument of international cooperation has been created. The European Neighborhood Policy has been set up as a direct response to the UFM, constituting an attempt to deepen the EMP¹⁵ and to reinforce the reform among the countries of the Mediterranean. In this vein, the main goals of the ENP are to reinforce the relations of the EMP by adopting bilateral agreements, to intensify the processes of economic integration and to create a free trade

¹⁴ See more at Anna Lindh Foundation : <http://www.annalindhfoundation.org/mandate-and-founders#sthash.5qHY04Zg.dpuf>

¹⁵ Mahjoub, A. (2005). La politique européenne de voisinage : un dépassement du partenariat euro-méditerranéen. *Politique étrangère*, 3, 535-544.

zone (1). The creation of this new policy has however been a victim of various critics that foresee in the establishment of this policy uniquely the extension of the former European colonial hegemony¹⁶ or a purely one-sided European imposition of norms (2). Nevertheless this new EU foreign policy has contributed to enhancing new international institutions of cooperation that should in lead in a foreseeable future to a more harmonized and peaceful Mediterranean, creating a political, economic, cultural and legal homogenization (3.)

1. Genesis of the European Neighbourhood Policy – Fighting against exclusion without providing inclusion

The European Neighbourhood policy (ENP) was developed in 2004, as a European response to its expanding politics of enlargement¹⁷. In comparison with the UFM, composed of multilateral agreements between the EU and the Arab countries, the ENP consists of bilateral agreements. These agreements shall induce reforms throughout the impulse of Action plans that have a more regional character, no longer solely in the Region of the Mediterranean but covering all EU-neighboring countries¹⁸. The ENP is a more operational framework than the multilateral agreements encountered in the UFM and remedies hence partially the inherent institutional problems of the Arab-Israeli conflict¹⁹. The main difference between the ENP and other international treaties lays in the idea of establishing bilateral agreements supported by individual Actions plans. The only way to implement a cooperative policy between the EU and the Arab countries was to offer bilateral actions plans of cooperation. These Actions plans shall assist and guide the signing countries financially and technical by providing support in implementing European norms in the Arab countries. Areas of intervention cover sectors such as education, environment, transportation, economic cooperation and exchange, democratic and electoral reforms, human rights and security questions such as the fight against terrorism.

Up until now 12 of the 16 ENP states have signed such agreements, except for Libya, Syria and Belarus. Algeria is currently still negotiating its Action plan with the EU. One of the key features of the ENP is to develop these countries in order to decrease the gap between Europe and the Arab

¹⁶ Youssoufi, A. (2003). Interragations et inquiétudes. *Confluences Méditerranée*, 3(46), 47-56.

¹⁷ Veebel, V., Kulu, L., & Tartes, A. (2014). Conceptual Factors behind the poor performance of the European Neighbourhood Policy. *Lithuanian Foreign Policy Review*, 31, 85-102.

¹⁸ Martín, I. (2010). Penser l'Euro-Méditerranée autrement. *Confluences Méditerranée*, 3(74), 169-182

¹⁹ Ibid.

countries. Rather than widening these differences the ENP aims at perpetuating prosperity and economic growth, implementing democratic values and ideas and creating a stable and secure belt around Europe.²⁰

The increasing debates on the feasibility of achieving security and economic growth and cooperation between the EU and Non-EU countries, and the difficulties of the UFM multilateral cooperation, led the EU to the creation of the ENP in 2004. The conceptual objectives of this new policy is based on the difficulties encountered in the UFM, especially due to its multilateral character and the deadlocks created by the mere fact of uniting countries of different cultural background and sociopolitical past. Especially the difficulties encountered by attempting to put an end to the Israeli-Arab conflict, by trying to unite all Mediterranean countries in one international cooperation arena poses a lot of controversies and institutional dysfunctioning.

Therefore, the vision of the ENP was to return to the idea of concluding bilateral agreements with all neighboring countries of the EU, creating hence a sort of ring of countries, drawn together into further integration, without necessarily becoming full members of the European Union and without having to suffer from individual conflicts among the different Member States. Thus, bilateral agreements are signed between the EU and all ENP member states of the Mediterranean and Southeast Europe defining the actions of cooperation to be implemented and providing financial and technical aid to the ENP member States.

The main source of funding's are set up by the European Neighbourhood Instrument (ENI) which came into force in 2014 and will be operational until 2020, replacing the European Neighbourhood and Partnership Instrument (ENPI). This research will pay a special attention to the implementation of the action plan covering years 2013-2015, assessing the extent to which Lebanese legislative acts have changed according to the benchmarks and actions set up by the EU.

2. Critics of the European Neighbourhood Policy

The critics towards the ENP and its interventionism are multiple. Some scholars argue that the ENP was created in order to counterfeit the sensation of an "*American World Order*".²¹ Creating a European influence and values in the surrounding neighbourhood would allow the EU to

²⁰ Oncescu, C. (2011). The European Neighbourhood Policy. Case Study : The EU - Lebanon Partnership. In I. Boldea, C. Sigmirean, & S. Costea, *Culture, Elites and European Integration* (pp. 109-124). Paris

²¹ Dagher, C. H. (2003). L'espoir européen, vu du Sud de la Méditerranée. *Confluenes Méditerranée*, 3(46), 93-98

establish a Europhile and cooperative area, and consequently being able to counterfeited the American influence in the Region. Others argue that European interests in these countries are the extension of a postcolonial desire to dominate the region, providing vertical aids of democratization and security zones based on European Values and imposed on the non-European states.

Another broadly agreed critique is the absence of incentives for implementing European norms and values. The idea of providing later accession to the EU is widely absent. The EU imposes its norms and values but fails to provide relevant incentives such as later accession to the sphere of the EU. Some scholars argue that by offering this type of cooperative politics the EU only tries to achieve security and economic goals without providing an interesting option for multilateral cooperation. The idea behind this policy is to provide the surrounding countries and partners with economic and political integration, especially in the area of the four liberties of the EU (liberty of circulation of goods, capital, services and persons) which represent up to 80% of the *acquis communautaire*.

Although it is true that the main idea behind the ENP is a policy of differentiation with the neighboring states without later inclusion into the sphere of the EU, some scholars argue that the chances for later admission are, albeit tacit, not entirely excluded as an option. Nevertheless, it seems that especially Arab states do not consider a later admission as a foreseeable option, whereas the Eastern States of Europe express a bigger interest within the framework of the EU.

Assessing the idea of why these different states consider or not the idea of being an integral part of the EU will require to understand the concept of common national identities and sharing values of the EU as a key element explaining the desire and will to cooperate effectively with the EU and its policy.

3. Institutions of the ENP

The ENP has also established its own institutions which are defined in the Euro-Mediterranean agreements. The first institution is the association Council that meets on a ministerial level and examines all questions relative of the EU-Lebanon agreement²². The council is composed of members of the EU Council, Commission and Members of the Lebanese government. With respect

²² Art. 74 Euro-Lebanon Agreement

to the presidency, it is exercised on a turning basis between a member of the EU and the Lebanese government²³. The Association council has a decisional power, and all decisions taken are legally binding for the country in question.²⁴

A second institution that has been set up by the EU-Lebanon Agreement is the Association Committee. The committee is responsible for implementing the EU Agreement and the Council can delegate some of its competences to the Committee²⁵. Decisional powers regarding the management of the agreement may be attributed to the Committee and within the areas that have specifically been assigned to it by the Council.

Consequently, the ENP also disposes of proper institutional bodies that shall function as organizations of isomorphic implementation. The vectors of interaction, information and mutual awareness are furthermore existent variables in this policy which constitute the basis for any isomorphic changes to be capable of occurring.

²³ Art. 75 Euro-Lebanon Agreement

²⁴ Art. 76 Euro-Lebanon Agreement

²⁵ Art. 78 Euro-Lebanon Agreement

CHAPTER III

ISOMORPHISM IN LEBANON – REALITY OR MYTH?

In the preceding chapter we examined the general existence of isomorphic structures and institutions of power capable of exerting a legal alignment within the Lebanese juridical framework. We have concluded this chapter by stating that all four organizational elements that are needed for institutional isomorphism to operate were existent in the different organizations and agreements that have been established between Lebanon and Europe. This chapter will be dealing with the reality of this legal alignment, trying to assess the degree of isomorphism within the change of Lebanese law.

In this optic, the first section will introduce briefly the history of Lebanese laws, describing its creation and the external influences that have contribute to it (A). The following section of this Chapter will address the question of current processes of legal modifications in Lebanon, constituting an attempt to depicture institutional behavior within the legal production of legislative norms and regulations that are in accordance with European law (B).

A. Lebanese Legal institutions: Sources and Creation of Lebanese law

In order to better comprehend the Lebanese legal system, this section constitutes a brief introduction to the sources of Lebanese law, examining the degree of isomorphism. It is necessary to understand the general composition and functioning of the Lebanese legal system in order to continue the investigation of isomorphism within its institutions. By looking at the sources of Lebanese laws, a high level of external influence in the creational process of this legal framework raises the question of isomorphic inspiration. Lebanon's legal environment has been influenced by the Ottoman Empire, the French and by the Lebanese society itself, due to its socio-cultural particularity. These different inspirations need to be further developed in order to evaluate the influence of institutional isomorphism within the advent of the Lebanese legal framework itself. A preliminary explanation of the specificity of Lebanon's legal framework can be found in the material sources of Lebanese law which are derived by four main principles. A first element is the

dynamism of the religious communities that shaped and formed Lebanese law, and transformed it into a mixture of Western laws and traditional inspirations. A second factor, lays within the idea of technical progress, which incited Lebanese laws to evolve toward more modernized legal rulings, becoming more aligned with international general principles of law. A third element, is the influence of economic liberalization, or competition to use the terms of Beckert, forcing Lebanese laws to adapt to a constantly changing international environment and its push for economic globalization. A last explanation for the specificity of Lebanese law is of a socio-geographical nature, translated in its sense of belonging to the Arab world, which demonstrates a certain persistence of Lebanese laws to aligning to other legal traditions. These four arguments and combined with the religious diversity in Lebanon have unquestionably shaped Lebanon's legal particularism. The religious communities still are, and have always been the substance of the Lebanese State and play a major role in its institutions. Understanding Lebanese law and its institutions requires therefore to examine the historical evolutions that led to a Modern Legal system (1), creating consequently two different types of legal rulings. General principles and rulings of Law that apply to all communities without any reference to their religious belongings and sectarian rulings that take into account the specificities of each community (2).

1. The history of Lebanese law

The origins of Lebanon's legal diversity go back to the Muslim conquests in the 7th century, during which the system of the personal status legislation (*statuts de la personnalité*) has been imposed to the people of the book, Christians and Jewish, as a conversion to Islam was not necessary for these populations. The power in place allowed all communities to manage their own laws, contributing hence to the development of its legal diversity, except within the areas of the public and financial law. The case of Lebanon is also special due to the large number of Christians and Druze which weren't a minority in this region, developing a certain dynamics of this legal exception. These communities have founded and established their different authorities on the respect of these particularities which led to the establishment of the semi-independence of Mount Lebanon, creating a sort of a pre-national entity. After the destitution of Emir Bashir, Constantinople attempted to introduce its indirect administration in Mount Lebanon under the coverage of pacifying the different sects. The massacres of 1860 provoked the intervention of the European countries, followed by the adoption of a semi-autonomy, internationally controlled for

Mount Lebanon. The system of Sectarianism has been viewed as a protection of the Christians, and has been applied equally for all communities by the Ottoman Empire. Maintaining this system of *statuts personnel* was necessary in order to maintain the Lebanese unity and to avoid that the Muslim communities would turn to its Syrian neighbor. This consecration came to be known as the National pact of 1943 in which the Christians would give up their “*Western tutelage*” and the “*Muslims their desire for unity with Syria*”²⁶. Or as Edmond Rabbath describe this pact: “*the Lebanization of the Muslims and the Arabization of the Christians.*”²⁷

This is also one of the reason that explains the consecration in the Constitution of this particularism, attributing the presidency to a Maronite, the position of the Council to a Sunnite and the Presidency of the Chamber of Deputies to a Shia. The respect of the *Nizam al-Ta'ify* is also applied within the attribution of the positions in the public administration. Nevertheless, the constitutional reform of Taef in 1991 foresees in its preamble the need for reform of this Sectarian system that shall be progressively amended, until its complete abolition:

ح - "إلغاء الطائفية السياسية هدف وطني أساسي يقتضي العمل على تحقيقه وفق خطة مرحلية".²⁸

Another factor of the originality of Lebanese law lays in the influence of French and Ottoman law. Already under the Ottoman occupation, Lebanese laws have been indirectly inspired by the French system. The Ottoman Empire has taken up a certain amount of French laws such as the organization of the judiciary, the Code of Civil procedure, the Criminal code and procedure, Code of Commerce and Maritime Law. This influence has been reinforced during the creation of Lebanon and the French mandate. By linking the theory of institutionalism to the legal developments in Lebanon, institutional isomorphic processes can be traced down. The Ottoman Empire was drawn to the French law due to its quality and precision, adapting and implementing it within its own institutions. Therefore, organizational change in the Ottoman Empire is a result

²⁶ Donohue, J. J. (2008-2009). Changing the Lebanese Constitution: A postmodern History. *Cardozo Law Review*, 30, 2509-2533.

²⁷ Rabbath, E. (1973). La formation du Liban politique et constitutionnel: Essai de synthèse. Publications de l'Université Libanaise. Section des études juridiques, politiques et administrative.

Rabbath, E. (1982). La Constitution libanaise : origines, textes et commentaires. (U. libanaise, Ed.) *Publications de l'Université Libanaise. Section des Etudes Juridiques, Politiques et Administratives*, 5

²⁸ Constitutional law dated 21/9/1991 : “*h. The abolition of political confessionalism is a basic national goal and shall be achieved according to a gradual plan*”

of institutional mimetic isomorphism, inspired by the French system due the quality and precision of its law. The imposition of French law in Lebanon, can be explained by the theory of coercive isomorphism, or indirect mimetic isomorphism. As a logical consequence the implementation of French laws in Lebanon is a direct response of the Ottoman Empire exerting its power on Lebanon, and implementing French rules. Mimetic isomorphism and coercive isomorphism are however not the only two forms of institutional explanations for the Lebanese legal alignment towards France. The creation in 1913, with authorization of the Ottoman Empire, of a Law School in Beirut, opens the board for discussing of the influence of normative isomorphism.

This *Ecole de Droit*, has been established throughout a common agreement between the Université de Saint-Joseph (USJ) and the *Association Lyonnaise pour le développement à l'étranger de l'enseignement supérieur et technique*, preparing its student for the French *Licence en Droit*. Lebanese Students were taught French Law, receiving hence a direct professionalization of French Law, and contributing to creating a sensibility for the French legal system. The French Mandate continued to increase this legal alignment to France, by providing a professional education of the Lebanese elite, which started to study Law in Europe. This influence of normative isomorphism remains up until today a constant vector of Legal alignment due to the fact that the Lebanese Jurisprudence and Doctrine still continues to refer regularly to the French Jurisprudence. Especially in the realm of administrative law, Lebanese professionals and legislators follow closely the fluctuations of the French legal modifications:

« Le raisonnement "français" fait partie intégrante de la vie des juristes libanais qui n'osent se prétendre au titre sans ce savoir essentiel, même si actuellement non suffisant depuis l'introduction de certains mécanismes empruntés aux systèmes anglo-saxons. Même au niveau des jugements rendus par la Cour de Cassation, la doctrine des Maîtres ne perd pas de son importance au sein des décisions jurisprudentielles: les juges continuant de se référer aux anciens grands auteurs français, dont les emprunts sont cités en français dans des décisions rédigées en arabe. »²⁹

²⁹ Publication of the Lebanese Delegation during the Euro-Mediterranean conference at Athens on April 2007 http://www.eipa.eu/modules/EuroMedJustice/Conferences/Athens_12_15Feb07/speeches/SpeechLYAN.pdf

Normative isomorphism is therefore a deeply rooted component within the Lebanese legal framework. However, some particularities remain and differentiate the Lebanese legal environment from European legal traditions. This specificity lays in the duality of two types of rulings : religious and common rulings.

2. The Duality of the Lebanese legal system

The socio-religious and demographic specificity of Lebanon has been translated in the Lebanese Legal system by adopting a differentiated reception of French and Ottoman Legal rulings. The religious tradition and composition of the Lebanese society has led to the rejection of some legal principles of the Napoleon Civil Code of 1804³⁰, creating hence this legal duality. The Lebanese societal design did not adopt an absolute separation between the sources of Law, Morality and Religion, rejecting hence any reference to the concept of Laicism, contained in the French Civil Code. According to this religious dogma, the moral law and the rule of law are based on a same transcendent origin and form an inseparable part of a single whole, called personal law system (*ystème de statut personnel*). This duality has created a differentiated adoption of the French Civil code, creating a clear distinction between national and sectarian law, explaining hence the uniqueness of the Lebanese legal system. In this sense, each community has adopted their own legal institutions and principles with regards to the area of the personal status legislation, explaining the existence of specialized religious tribunals. Lebanon is therefore a unique country in which the system of the personal status legislation is not followed by a predominance of one sectarian ruling over another. The neutrality of the State with regard to all communities ensures a perfect equality of all statutes in conflict for which the solutions of litigation are purely based on legal considerations. However the degree of autonomy with regards to the *statuts personnels* varies from one community to another. Some organizations are integrated into the State institutions, as it is the case for the sunna, shia and druze communities (double autonomy) some are entirely independent from any State intervention such as for the Christian tribunals. This difference of autonomy is due to the specificity and the influence of Islamic law that integrated these institutions into the Public Domain, whereas the Christian tribunals have been independent of the political institutions of the Middle Ages. In this vein, the State is responsible to nominate and reattribute

³⁰ See also Capitant, H. (1993). *La circulation du modèle juridique français* (Vol. 1). Paris: Litec.

the judges of the Muslim Courts and establishes the rulings of the common national law and the dispositions of the *statuts personnel* regarding the Muslims communities. In the absence of a determined national law, each community refers to their own traditional rulings that will determine the competence of the tribunal and the outcome of the judgment.

A good illustration can be found within the judiciary organization of Lebanon in terms of civil affairs. In this vein, every judiciary actions or litigation that is not defined by the Lebanese Code of Civil Procedure is directly treated by one of the 19 religious tribunals. The main attributions of the religious tribunals lay within the realm of the personal status legislation such as marriage, divorce or child custody. The Supreme Court plays the role of arbiter and verifies the competence of the confessional Courts to ensure that the competent sectarian authority does not act outside the scope of its competences as it is the case of the Dispute Tribunal in terms of conflicts of private or public matters. The civil affairs are treated by the Tribunal of First Instance (TGI), an appeal is possible at the Court of Appeal (CA) and the Supreme Court of Lebanon (Cour de Cassation) verifies the correct interpretation of the applied law.

With regards to the religious tribunals a difference can be made between ecclesiastical tribunal and Islamic tribunals (see Figure 1). Due to the limited scope of this research paper, the following description constitutes a general overview of the religious tribunals and only serves to highlight the major differences among the religious tribunals without paying too much attention to their exact specificities.

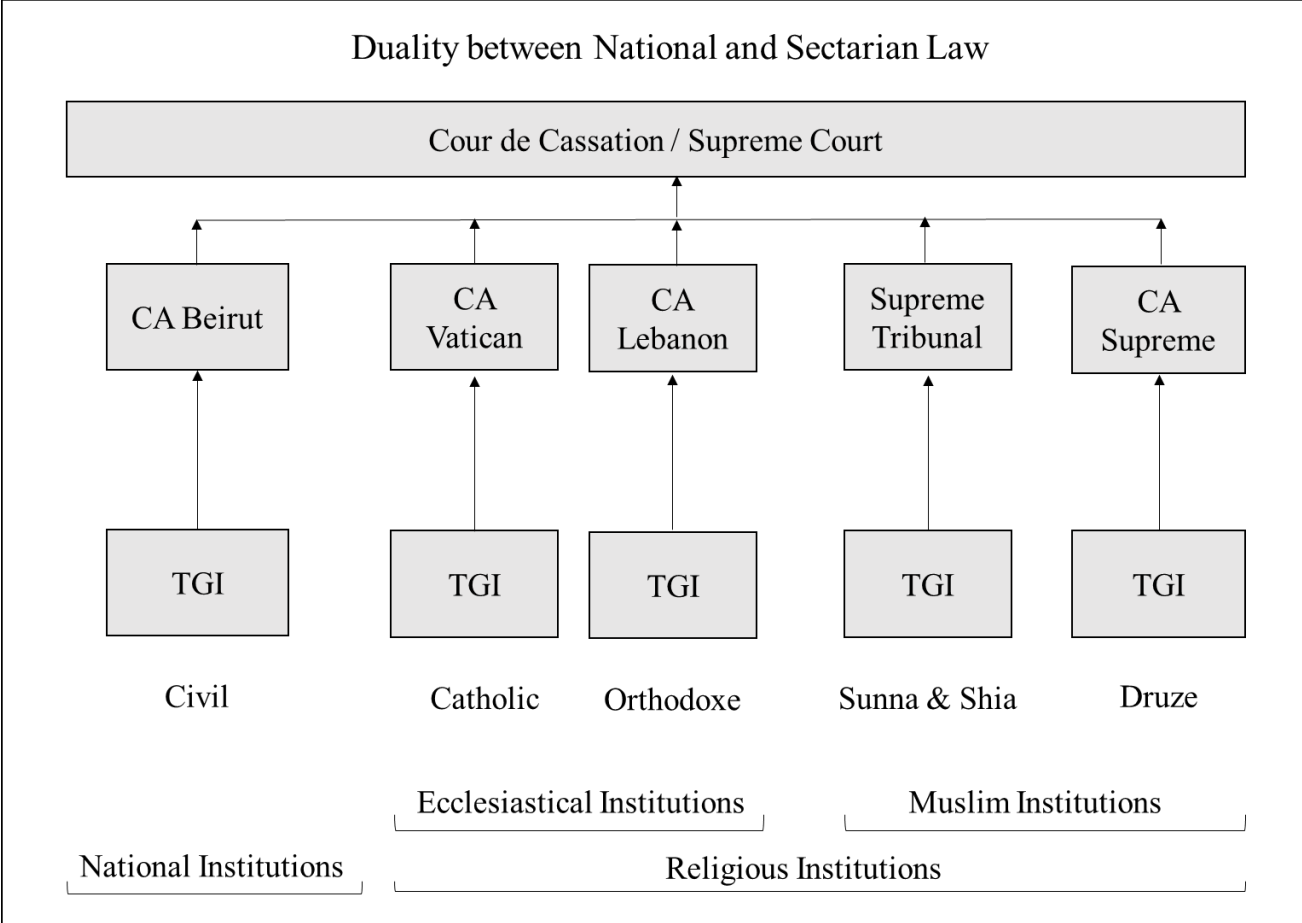


Figure 1: Legal Duality between National and Sectarian Institutions

The ecclesiastical tribunals are regulated by a law in date of 2nd of April 1951, attributing the judiciary power to the religious authorities³¹ in terms of affairs regarding the *statut personnel*, such as divorce, child custody and marriage. The question of successions for the Non-Muslim tribunals is treated by the civil jurisdictions in opposition to the Islamic Tribunals. The magistrates of these Courts are not nominated by the State and have an independent statute, and are generally paid by the respective communities. A subdivision can be made between ecclesiastical tribunals of the catholic communities and those of the orthodox. Both communities dispose of a Tribunal of First instance that respectively apply their religious rulings. In the case of the catholic tribunal a Court of appeal is set up in Rome, whereas the Orthodox communities have their Court of Appeal in Lebanon. Both communities however are controlled in terms of their competences by the Supreme

³¹ See also art. 9 of the Lebanese Constitution

Court, which tries to harmonize the correct attribution of the affaires to the various religious tribunals.

The Muslim tribunals can be divided into shia / sunna tribunals and druze tribunals. The organization of the Muslim tribunals for the Sunnas and shias is regulated by the Law in date of 16th July 1962 and the decree 3473/60 in date of 5th of March 1960 for the Druze tribunals. The difference with Christian tribunals lays in the exception that these tribunals are formerly integrated into the State and their magistrates are Public Servants, nominated by decree and paid by the Lebanese State. As mentioned earlier, the Muslim tribunals also intervene in the event of successions. An appeal is similarly possibly at the level of a Court of Appeal for the Druze communities and a Supreme Tribunal for the sunna and shia sects.

Albeit these visible differences in terms of applying a different protection to the various communities, the legal evolution of the Lebanese system is heading toward a more harmonized system of non-sectarian laws. A recent example is the current debate on Civil Marriage³² and the Lebanese desire to progressively integrate the religious tribunals into the scope of national and non-religiously segregating law.

B. Analysis of the normative volume in Lebanon and isomorphic behavior in the course of current legislative developments

This section will determine the extent of institutional isomorphic behavior in the realm of Lebanese Laws. Before delving deeper into the content analysis of those Laws, a primarily assessment was done regarding the general volume of Lebanese normative productivity. Examining the volume of legal productivity was an interesting starting point to determine the feasibility the analysis of legal change in Lebanon. This preliminary evaluation validated the already well-established fact of the dysfunctional Lebanese legislative system. A quantitative analysis of the legislative and regulatory activity in Lebanon showed that the influence of the executive within the realm of adopting legal norms is more important than the legislative production. The reason behind this legislative deadlock lays the institutional crisis that started in Lebanon in 2013 when the elective term of the Parliament ended and the Lebanese institutions were dealing with remediating this institutional dysfunction.

³² See current legal debate on a Legislative project to implement a law on Civil Marriage
مشروع قانون يرعى اجراء الزواج المدني الإختياري في لبنان ويقضي بتعديل بعض
النصوص القانونية <http://www.justice.gov.lb/CP/viewpage.aspx?id=1225&language=1>

This explains the poor legislative activity in 2013, demonstrated by the adoption of only two Laws by the Parliament extending the term of the latter³³. The following two years the legislative productivity has considerably improved, adopting 66 laws in 2014 and 38 in 2015. One of the possible explanations of the increase in the legislative activity during those two years is the reinforcement of the EU-Lebanon cooperation which pushed Lebanon to participate more actively toward the implementation of the Action Plan of 2013 to 2015. However, the executive with its regulatory power filled the gaps of the legislative lack of legal production, adopting 829 decrees in 2013, 1538 in 2014 against 789 in 2015 (see Figure 1).

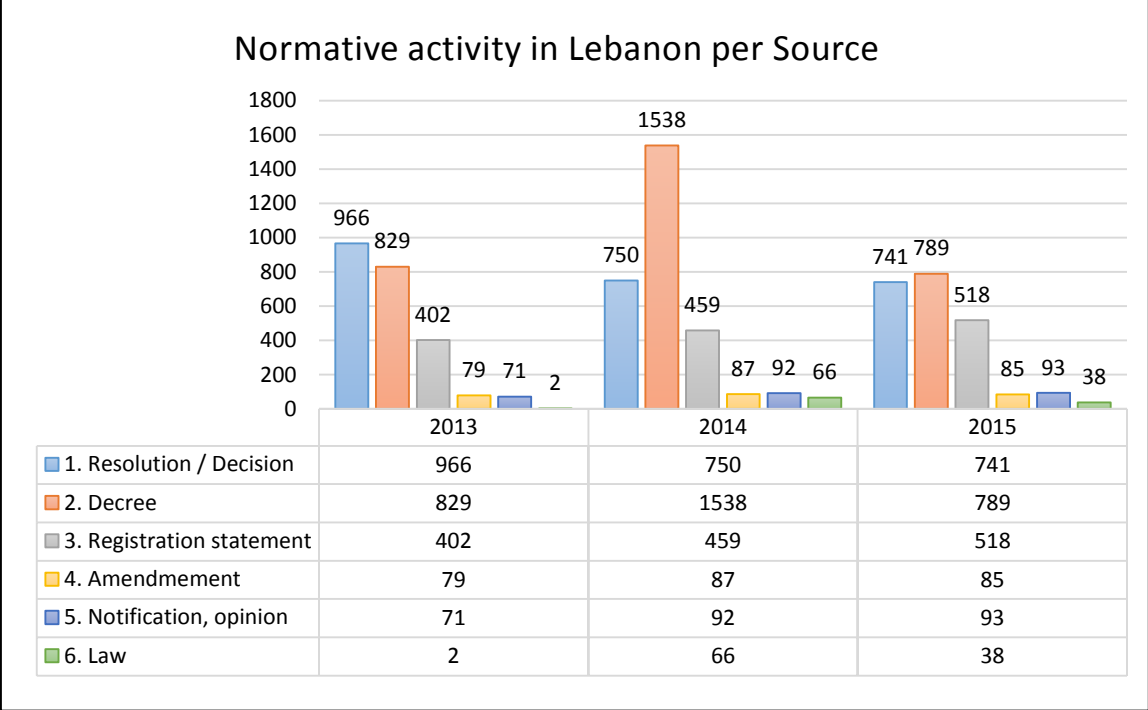


Figure 2: Normative activity in Lebanon during the years 2013 to 2015

The considerable differences between the executive and legislative normative activity demonstrate the lack of democracy in Lebanon and highlights the deeply dysfunctional institutional environment. It seems as if the Executive seeks at replacing the lacking the legislative activity, by adopting more regulatory laws, decisions and resolution. Moreover, the executive legal activity varies considerably from one Ministry to another.

³³ Law n° 245 and 246 adopted on April 13th of 2013

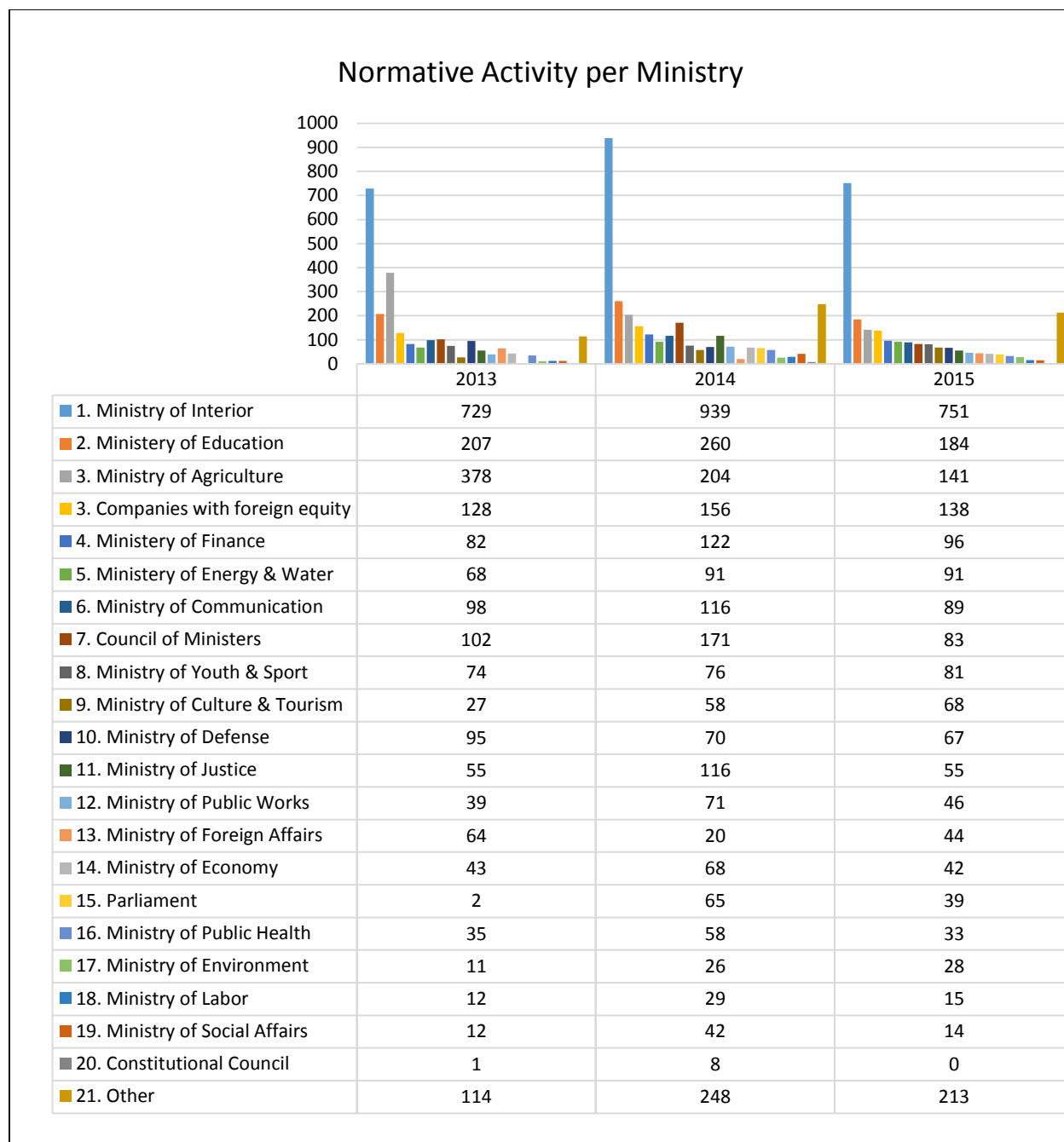


Figure 3: Normative activity per Ministry during the years 2013 to 2015

In this vein, the Ministry that adopted the most regulations, decisions and resolutions was by far the Ministry of Interior, 729 norms in 2013, against 939 in 2014 and 751 in 2015 (see Figure 2). The Ministry that published the second most legal acts, was the Ministry of Education, adopting 207 acts in 2013, 260 in 2014 and 184 in 2015, followed closely by the Ministry of Agriculture. Less normative activity was found among Ministries dealing with social, environmental and health

related affairs. The Constitutional Council was by far the less productive institutions, being almost absent with regards to its regulatory power, adopting only 1 Decision in 2013, 8 in 2014 and none in the following year.

With regards to the general legislative and executive normative activity, there are also interesting variations. In 2013, the total of adopted norms amounted up to 2376 acts, against 2318 in 2015 and a total of 3014 in 2014. These variation, especially the high normative activity in 2014, is also explained by the increased influence of the EU, pushing Lebanon towards respecting their international obligations resulting from the Euro-Mediterranean agreement and their duties of implementing the Action Plan of 2013 to 2015.

A second step of this research consisted in examining the nature of the legislative activity, attempting in a third step to approach the different changes in Lebanese laws to the actions and benchmarks set up by the EU and consequently the degree of legal alignment of Lebanese laws with Europe. The initial idea was to approach these sections with the Action Plan for Lebanon. However, the relatively imprecise and general character of the Action plans made such an approach rather difficult. Therefore a different approach was adopted. The revised methodology consisted in using the different European projects of cooperation between Lebanon and Europe that are financed either entirely by the EU, or its different financial funding's³⁴, or by individual European Countries³⁵ and to a lesser extent the benchmarks and indicators of the Action Plan. These documents contained a more detailed description of projects to be implemented in the realm of the ENP, and provided more detailed information regarding the actions to be undertaken, the beneficiaries and the financial donors. In this vein, eight categories have been identified: 1) Human Rights and Democracy, 2) Justice and Good Governance, 3) Economic Development, 4) Infrastructure and natural resources, 5) Peace, security and stability, 6) Social development, 7) Regional Development, 8) Culture.

These categories composed the preliminary basis to determine the degree of legal alignment per area. However, it was not always easy to categorize certain legislative acts due to their specific character or their level of imprecision. It was particularly difficult to differentiate between legislative acts of Regional Development and Infrastructure, resulting in the constraint of determining whether a project was of a purely regional level or was benefitting the entire country.

³⁴ Notably by the European Investment Bank (EIB)

³⁵ Two projects have been financed by France or and one financial loan has been provided by Germany

Nevertheless, this classification still constituted the best way of categorization, providing a general overview of the legislative activity per area.

Another category that was difficult to determine was the area of Economic Development. The approach of classification consisted in applying this category to all the Laws that could influence directly or indirectly an effect on the Lebanese Economy. In this vein, laws creating trade unions for doctors³⁶, nurses³⁷ and mid-wife's³⁸ or amendments for the profession of pharmacists³⁹ were classified under Economic development, due to their indirect effects on improving Lebanon's economy by means of socio-professional union and cohesion. The creation of a Council of Council of Notaries⁴⁰ and their respective organization⁴¹ have equally been classified under the Category of Economic Development as well as those laws dealing with the fiscal reform of the Lebanese Income⁴² and VAT tax⁴³ system.

After having resolved these initial problems of classification, it was interesting to see that most of the Laws that have been adopted in Lebanon were treating broad and general subjects. Most of them dealt with the idea of economic development 38,68%, against 31,13% of the Laws that implemented projects with regards to improving the environmental situation, the reconstruction of different areas in Lebanon and the improvement of the quality of water and the treatment of garbage. Less change has occurred in the category of social reform 15,53%, including projects such as the implementation of modernizing the Lebanese University in Tripoli⁴⁴ or adopting two laws on mother leave⁴⁵. Even less legal quantitative change has occurred in the areas of Human Rights (4,72%), Justice (4,72%) and Peace (3,77%) and almost nothing has been done in terms of Cultural reform (0,94%).

³⁶ Law n° 271 adopted on April 22nd of 2014,

³⁷ Law n° 250 adopted on April 22nd of 2014,

³⁸ Law n° 249 adopted on April 22nd of 2014,

³⁹ Law n° 274 adopted on April 22nd of 2014

⁴⁰ Law n° 272 adopted on April 22nd of 2014

⁴¹ Law n° 290 adopted on May 15th of 2014,

⁴² Law n° 273 adopted on April 22nd of 2014,

⁴³ Law n° 262 adopted on April 22nd of 2014

⁴⁴ Law n° 2 to 8 adopted on November 3rd of 2014 and Law n° 21 and 22 adopted on November 26th of 2014

⁴⁵ Law n° 66 and 267 adopted on April 22nd of 2014,

Figure 4: Categories of Law



Nevertheless two important laws on Human Rights have been adopted, covering the area of criminal law⁴⁶ and the protection of woman against domestic violence⁴⁷. Both laws have contributed to amending the Lebanese criminal Code of 1943, producing hence a more adequate respect of Human Rights in Lebanon and a better alignment with the European Court of Human Rights (ECHR)

The first amendment that took place in the Lebanese Criminal Code concerned the first paragraph of article 186. This article determined all acts that are not to be considered criminal acts according to Lebanese Law. Consequently the former paragraph allowed parents and teachers to inflict disciplinary actions on the children, as long as the latter were commonly considered by the Lebanese practice/custom as acceptable (see Table 1). This formulation gave rise to a legal uncertainty as to determining the range of disciplinary acts that shall not be considered a criminal offence, leading to acts of domestic violence against children and the violation of their fundamental rights. With the reform of this paragraph the new formulation of article 186 now only permits:⁴⁸

"أنواع التأديب غير العنفي التي يمارسها الآباء والأمهات على أولادهم ، على أن لا تترك أي أثر على جسد الأولاد أو تحدث ضرراً في صحتهم الجسدية أو النفسية"

Consequently the reference to the General custom has disappeared and disciplinary acts that are considered legal have been limited to acts that do not leave any traces of physical or mental damage

⁴⁶ Law n° 286 adopted on May 08th of 2014

⁴⁷ Law n° 293 adopted on May 15th of 2014

⁴⁸ "1. Non-violent disciplinary acts exercised by parents to their children that do not leave any traces on the body of the children or result in physical health or mental damage."

on the body or the mind of the children. Even though this legal change may appear in terms of quantity of a minor change, it constitutes a considerable step toward the protection of fundamental Human rights for Children and is another a step closer to a legal alignment with the ECHR. This legal modification is specifically interesting as it demonstrates how international cooperation can lead to an isomorphic change. By looking at the Section C of the EU-Lebanon Action plan on Human rights and its paragraph 4, describes the European call for “*progress in protection of women's and children's rights*”⁴⁹ in Lebanon, forming an integral part of the European cooperation in Lebanon. However, it is difficult to evaluate the extent to which the EU has influenced and inspired the amendment of this law, making it difficult to determine the level of isomorphism. Therefore and before jumping to premature conclusions it is interesting to look at a second law n°293 implementing a considerable advance of improving the conditions of Human Rights for women in Lebanon.

The law n° 293 has participated in increasing the protection of women against domestic violence, following the line of paragraph 4 of the EU-Lebanon action plan. This second law on Human Rights is an interesting example of institutional isomorphism as it provides us with broad information on the different organizations involved in creating this law as well as references in the ENP Action plans and projects. First of all, this project has been implemented throughout a transnational Non-governmental cooperation between the Swedish NGO Kvinna till Kvinna and its Lebanese homologue Kafa. Secondly, a total of three projects regarding the implementation of this Law has been supported by ENP benchmarks and projects, contributing financial aids to those NGOs and shaping hence the adoption of this law. The first project was a Legal campaign to ensure the protection of women against domestic violence, drafting a Law that explicitly and clearly protects all types of violence against women and their family. A second project worked on engaging the national policy and the legislative power in the protection of the rights of women against violence based on their sex, implementing training projects within the Internal Security Forces (ISF), attributing and assisting women that have suffered from sexual harassment in the defense of their rights. A third project that was adopted between Kvinna till Kvinna and the Lebanese Council to resist violence against woman (LECORVAW), providing social and legal assistance as well as medical services for women that have suffered from sexual harassment. The

⁴⁹ EU-Lebanon Action Plan of 2013 to 2015, Section C - Human rights and protection of vulnerable populations, including Palestinian refugees, by legislation or other adequate measures and targeted actions, p. 7

particularity of these projects is that no financial budgets was provided in the documents of the European Delegation, nor a specific donor, except for the Swedish NGO, that has helped implement this new law. This raises the question of the transparency of this project with regard to EU funding and influence, and consequently the institutional theories that could be applied to this specific case. Coercive isomorphism? Mimetic isomorphism? Or normative isomorphism? The most adequate response would be a combination of all three of them, even in the absence of a clear EU budget for this project. The mere fact that a Swedish NGO, and therefore a European NGO, provided actions to be implemented regarding this specific project, exerting a certain amount of coercion upon the Parliament in Lebanon can be sufficient to evaluate the extent of European institutional isomorphism. Mimetic and normative isomorphism can therefore be found due to the fact that the Lebanese NGO Kafa was working in close cooperation with the Swedish NGO Kvinna till Kvinna, creating a socio-professional networking, receiving technical aid and training from the Swedish NGO, and applying the acquired normative and European knowledge in Lebanon. At first sight, it appears that the example of this law could constitute a positive response for the success of European cooperation contributing to isomorphic changes in Lebanon. However, it is necessary to take a closer look at the actual changes in Lebanese law before jumping to premature conclusions. With regards to the influence of this new law on existing Lebanese laws a considerable impact, in particular regarding the amendments brought to the Lebanese Criminal Code can be provided. In this vein a total of eight articles of the Criminal Code have been modified of which five articles have received new paragraphs. From a quantitative perspective this is already a considerable success and constitutes a first step towards the implementation of a legal framework of protection of women against domestic violence.

From a qualitative perspective mainly three changes have occurred within the Lebanese criminal code: modifications of used terms, increase of the fines to be paid, and extending the article itself, adding more specific regulations for the protection of women.

The first set of modifications is mainly of a typological nature, increasing however considerably the protection of women's rights. In this vein, the lecture of art 487, 488 and 489 has changed the words "*spouse*" to "*one of the spouses*" (see Tables 2, 3 and 4) equalizing hence the criminal punishment for both, male and female adulterers. Furthermore, article 487 has changed the wording for sentencing "*a woman that commits adultery*⁵⁰" to "*adultery committed by one of the*

⁵⁰ Ibid.

spouses”⁵¹ to an imprisonment of “no less than three months and no more than two years”⁵². The typological changes in article 489 of the Lebanese Criminal Code were also interesting. The former lecture prosecuted partners or accomplices only “together with the spouse”⁵³. The new version of the Criminal Code now prosecutes partners and accomplices “together with the adulterer”⁵⁴. A second change within this article was the usage of the word spouse instead of plaintiff, being transformed from its original reading of “a complaint filed three months after the man became informed of the crime shall not be accepted” to a “complaint filled three months after the plaintiff became informed of the crime.”⁵⁵ These modifications did contribute to increase the process of an equal justice between men and women in the case of adultery, by changing the wording of the above mentioned articles.

A second type of changes that occurred were of a sentential nature, increasing the fine to be paid in case of violating the law. In each case the carceral sentence remained the same, the modifications that were adopted concerned the amount to be paid in terms of fines. In the cases of articles 523, 527 and 618, the fine to be paid increased from an initial range of 50.000 to 500.000LL to a “fine varying between the minimum wage and three folds the same”⁵⁶, to a fine that is “not less [than] the minimum wage and not more double its amount”⁵⁷ for a former fine variation of 20.000 to 20.000LL. The new wording of the above mentioned articles now provides a more adequate punishment in terms of financial fines to be acquitted, due to a formulation that is no longer based on a specific amount, that varies due to inflationary fluctuations and changes, but rather on a minimum wage fine that is constantly adapted with the current economic development in Lebanon. A third type of modifications was of a more material nature, adding and extending the existing articles. In this vein, article 523 was enriched by adding an additional paragraph that shall sentence all crimes “committed within the family regardless the age of the person against whom the crime is committed” in the case of instigating a person, male or female, under the age of 21 to prostitution or corruption. An almost similar extension has been adopted for the article 527 prohibiting the instigation of “whoever shall rely on the prostitution of a third party to gain his/her living, whether

⁵¹ New article 487 of the Lebanese Criminal Code

⁵² Old article 487 of the Lebanese Criminal Code

⁵³ Old article 489 of the Lebanese Criminal Code

⁵⁴ New article 489 of the Lebanese Criminal Code

⁵⁵ Ibid.

⁵⁶ Article 523 of the New Lebanese Criminal Code

⁵⁷ Article 527 and 618 of the New Lebanese Criminal Code

fully or partially". The sentence of this offense shall *"be increased according to the Article 257 of the Penal Code if the offense occurred within the family, the penalty shall be doubled if the offense was accompanied by any form of violence or threats"*. A last material change in the Lebanese Criminal Code fosters the extension of the offense of homicide of article 547. The amended version of the former now also characterizes as the homicide any offense *"committed by one spouse against the other"* condemning the accused to a sentence that *"shall vary between twenty and twenty five years"*

To sum up these material and typological modifications of the Lebanese Criminal Code, the adoption of the law 293 had a historical impact on the protection of women's rights against domestic violence. The annual report of 2014 adopted by the Lebanese NGO Kafa confirms this legal evolution by stating that :

*"Despite the many flaws and the need to continue challenging patriarchal mentalities, structures, and laws, the law legislated new mechanisms to address family violence and was seen to promote women's safety, despite the need for its reform."*⁵⁸

Another important finding in analyzing Lebanese laws was the nature of the legal modifications. A lecture of all the 106 laws allowed to distinguish different types of legislative change. Hence in the case of 41 laws, new laws have been adopted, closely followed by an astonishing total of 37 laws that uniquely ratified international treaties, as well as three laws dealing with the conclusion of new treaties. The third biggest category of legal change was found in the amendment and extension of already existing laws, adding paragraphs, rephrasing or modifying certain sections of existing laws. This legal behavior highlights again the fragility of Lebanon, a country that constantly has to fight for its own survival and perpetuation due not only to its historical past and the need for reconstruction, but also regarding the current situation of the Syrian-Iraqi crisis and its geopolitical situation and tensions in the region (see Figure 4)

⁵⁸ Kafa's Annual Report 2014 Highlights, Introduction, page 5 <http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf-82-635689245975040950.pdf>

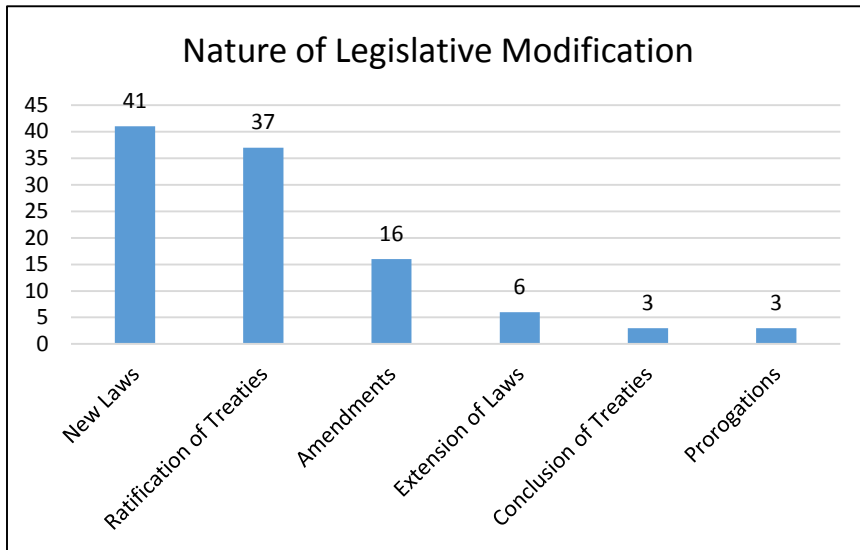


Figure 5: Nature of the Legislative Change in Lebanon

By referring back to the theory of institutional isomorphism and the idea of legal alignment in Lebanon, it is interesting to examine the degree of external influence in Lebanon with regards to the different laws that have ratified international treaties.

Most of the 37 treaties that have been ratified are mainly of a financial or cooperative nature, and have been concluded between Lebanon, the EU, the Arab Fund for Economic and Social Development (AFESD), the Arab Authority for Agricultural Investment and Development (AAAID), the International Bank for Reconstruction and Development (IBRD), the Islamic Development Bank (IDB), the Kuwait Fund for Arab Economic Development (KFAED) and the Kreditanstalt für Wiederaufbau (KfW).

The biggest donor of financial aid for the considered period in terms of legal ratifications has been the IDB with 10 laws being transposed in Lebanese Law, against 8 for the EU, and 7 from the KFAED (see figure 5). This legislative behavior demonstrates two things: First of all, it validates Lebanon's acceptance of transposing international treaties. Secondly, it highlights the budgetary institutional difficulties in Lebanon that is in a constant need for international aid and funding and the possibility for Lebanon to achieve legal alignment with Europe throughout a deeper financial and legal cooperation.

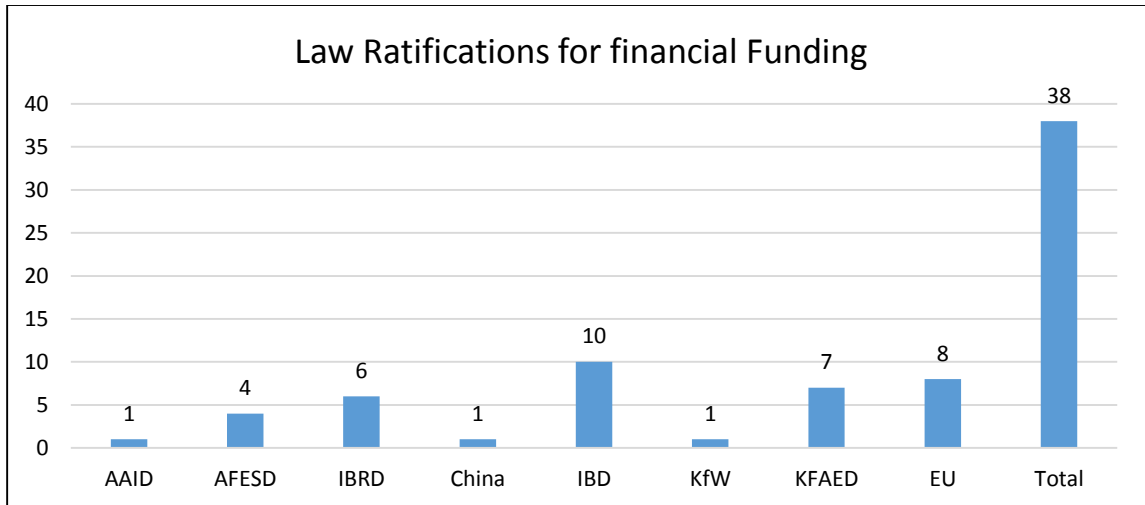


Figure 6: Break-down of international donors

Nevertheless these numbers also undermine the actual impact of EU cooperation. It is true that 8 out of the 37 laws have transposed European treaties of funding and cooperation, but the biggest organization that provided funds and aids for International development remained the Islamic Development Bank followed by the Kuwait Fund for Arab Economic Development. This situation raises the question of the global impact of both the ENP and the UFM and the institutional instruments of funding and cooperation attempting to constitute a response to achieve legal alignment in Lebanon.

Answering this question will require to assess the difficulties encountered in these policies, proving reasons for the relatively poor success of institutional isomorphism in Lebanon, and trying to suggest possible improvements for a closer and more functional institutional environment of Euro-Lebanese cooperation.

CHAPTER IV

REASONS FOR THE RELATIVE SUCCESS OF ISOMORPHISM IN LEBANON

After having introduced the main policies of Lebanese-European cooperation and their respective institutions, as well as the Lebanese legal environment and the current processes of legislative and normative production in Lebanon, this Chapter will address the question of the relatively poor success of institutional isomorphic forces in Lebanon. Therefore, a two-folded analysis following some of the Hypothetical approaches of Paul DiMaggio and Powell will provide cases in which institutional isomorphism is more likely to occur and approach these Hypothesis with the findings of the preceding chapters. Paul DiMaggio and Powell distinguish two main sets of Hypothesis, those relative to an organizational level and others referring to field related predictors. Their first set of empirical Hypothesis addresses the question of organizational level predictors, which are in our case the European institutions. By approaching the institutional environment of both the ENP and the UFM with the various hypothesis of isomorphic forces within the framework of these organizations will lead to a better understanding of the poor isomorphic outcome of these policies and help to provide some suggestions of improvements (A). A second set of Hypothesis that is provided by those two author's covers the field itself in which isomorphism may take place, in other words the Lebanese national institutions and organizations. Possible reasons for the absence of a veritable institutional theory approach within these Agreements of European Cooperation may be founded in the dysfunctional political system of Lebanon itself, the current political and social crisis, and the incapacity of the Lebanese institutions to respond adequately to adopt norms that are in compliance with the European indicators for reform (B).

A. Organizational factors of prediction of isomorphic behavior among the EU institutions

1. A considerable lack of coercive forces of the European institutions

The relatively little success of institutional isomorphism in Lebanon is due to a large part to the lacking coercive forces of the European instruments of cooperation. Paul DiMaggio and Powell have set up two Hypothesis that explain the lack of coercive isomorphism in the frame of these European policies and institutions. The first set of hypothesis (A-1) of the above mentioned authors foresees that:

“The greater the dependence of an organization on another organization, the more similar it will become to that organization in structure, climate and behavioral focus.”⁵⁹

In order to validate the first Hypothesis, there has to be some sort of dependency of the Lebanese institutions with regard to EU institutions created to implement their norms. However, the Declaration of Barcelona and the Agreements for the UFM are composed of non-binding legal documents. The nature of those agreements is only politically binding and don't result in any form of sanction whatsoever creating hence an organizational legal independence of the Lebanese institutions, and consequently a lack of isomorphic coercion. This situation leads toward a certain legal fluidity of these agreements with regards to the European law. In order for coercive institutional isomorphism to function the EU institutions and agreements need to create some sort of dependency, functioning as an external vector that pushes Lebanon toward enforcing Europeanized norms in its country. In the case of both the UFM, and to a lesser extent the ENP, neither or nor dispose of a sufficient capacity of implementing substantial legal change in Lebanon. The lack of sanctioning the Member States, results in a somewhat independent situation of Lebanon towards the politically ratified agreement. The EU attempt to act as a “*norm entrepreneur*”⁶⁰ in the UFM is therefore undermined by the fact that adhering to the UFM appears to be based on a purely voluntary basis and a non-respect of this agreement will not result in any sanction whatsoever.

⁵⁹ Cit.op. DiMaggio, P. J., & Powell, W. (1983)

⁶⁰ Panebianco, S., & Rosa, R. (2004). EU attempts to export norms of good governance to the Mediterranean and Western Balkan countries. *Jean Monnet Working Papers in Comparative and International Politics*, October(53), 1-25

With regards to the process of norm adoption the difference among countries of the EU enlargement process and countries of the ENP or the UFM is considerable. Countries that are enrolled in the enlargement process of the accession to the EU have to comply and fulfill all the criteria of the Copenhagen Declaration of 1993⁶¹ due to the specific nature of a legally binding treaty.

The successful construction and legal harmonization of the EU was due to the ratification by all Member States of a veritable binding treaty, creating a situation of dependency of the Member States, resulting in an institutional vector for legal alignment. During the period of the Ottoman Empire and the French Mandate, institutional isomorphism was more functional due to the coercive force of the dominant organizations involved. A veritable alignment towards the French legal system was established and implemented. France had all the necessary means to impose their legal vision in Lebanon, the same can be applied to the coercive forces of the Ottoman Empire.

A second Hypothesis (A-2) draws on the idea that:

“The greater the centralization of organization A’s resource supply, the greater the extent to which organization A will change isomorphically to resemble the organizations on which it depends for resources.”⁶²

One could assume that the financial aid of the EU may constitute such a force of isomorphism. However, the findings in the preceding chapter demonstrated that the EU is not the sole institution that is providing financial resources for Lebanon in order to adopt certain norms and EU guidelines. The competition of other international actors and the fluidity of the EU financial funding’s have therefore lead to a dispersed situation, resulting in a lack of coercive isomorphism to function correctly. Another authors confirms this theory, by stating that:

⁶¹ Presidency Conclusions, Copenhagen European Council - 21-22 June 1993, 7. Relations with the Countries of Central and Eastern Europe, A. The Associated Countries :

“Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.”

⁶² Cit.op. DiMaggio, P. J., & Powell, W. (1983)

*“Exchanges are characterized by transaction-specific investments in both knowledge and equipment. Once an organization chooses a specific supplier or distributor for particular parts or services, the supplier or distributor develops expertise in the performance of the task as well as idiosyncratic knowledge about the exchange relationship”*⁶³

It is true that, the ENP and to a lesser extent the UFM provide “*transaction-specific investments in both knowledge and equipment*”. However, it seems that maybe due to the rather recent international policy, 1995 and 2008 for the UFM, and 2004 with regards to the ENP, may constitute a supplementary reason for which the supplier, Lebanon has not yet considered or entirely evaluated the advantages of such an exchange relationship. It also may be true, that the problem does not lay directly in the institutions of the EU but result from purely Lebanese domestic difficulties, which will be discussed later on.

The lack of incentives for a veritable ENP and UFM is one of the main reasons for a rather deceiving progress of reforms in the Region. Neither the Barcelona Declaration nor the ENP provide sufficient incentives for the Countries of the Mediterranean. However, future reforms of both the ENP and the UFM will require to include more convincing incentives of some kind of legal alignment with the EU shall take place. The need for incentives and legal attraction are two necessary forces that will allow the EU to exert mimetic and normative isomorphic forces in Lebanon. Providing a legal framework and political institutions that are attractive and inspiring will contribute to the increase of legal harmonization in Lebanon.

2. Civil society – An underestimated actor for isomorphic change

*“The success of enforced homogenization depends on social structural and informational conditions. The external power holder must have the organizational capacity to make the envisioned model known and needs support from local actors putting the institutional blueprint into practice. The actual diffusion of an institutional form depends on the distribution of information, finding legitimacy for the models, and on social networks”*⁶⁴

⁶³ Williamson, O. E. (1979). Transaction-cost economics: the governance of contractual relations. *Journal of Law and Economics*, 61-233

⁶⁴ Cit. op. Beckert, J. (2010) ; see also Cambell, J. L. (2004). *Institutional Change and Globalization*. Princeton: Princeton University Press, and see Djelic, M.-L. (1998). *Exporting the American Model. The Postwar Transformation of European Business*. Oxford: Oxford University Press

In the case of the European agreements and declarations of Cooperation in Lebanon, one organization is benefitting particularly from the Euro-Mediterranean agreement; governmental institutions or international organizations such as the EU. However, other organizations play an almost as important role, if not even a more important one, in the field of inducing a considerable legal change. The most important legal changes have occurred throughout the cooperation of Non-governmental actors that have pushed the Lebanese government and parliament to adopt certain amendments in the field of Human Rights. This raises the question of a second set of Hypothesis (A5-A6) that have been provided by DiMaggio and Powell, notably in the realm of normative isomorphism. According to those two authors, Hypothesis A-5 foresees that:

“The greater the reliance on academic credentials in choosing managerial and staff personnel, the greater the extent to which an organization will become like other organizations in its fields.”⁶⁵

The idea is that by choosing professionals that have altogether received a similar university education, the greater the extent to which an organization will become more aligned to other institutions. This example is true in the case of Lebanese legal professional that have received to a great extent a similar legal education as the French, by studying French Law, travelling to Europe and by applying French legal rulings in Lebanon. However, outside the area of Legal cooperation, this policy of Cooperation has not yet implemented a true form of educational training for Lebanese students, even though the number of academics that are studying in Europe is becoming greater, the current situation is not yet satisfying. One of the reforms of the New Neighborhood policy of the EU has therefore foreseen to increase the number of Lebanese students studying in Europe, augmenting the funding for educational exchange programs and professional trainings. This reform hopefully will lead in a foreseeable future towards a more homogenized legal, political and economic behavior in Lebanon, or as Jean François Coustillièrè puts it:

⁶⁵ Cit.op. DiMaggio, P. J., & Powell, W. (1983)

« Le transfert de savoir-faire et de connaissance est souvent négligé au profit de projets d'investissements. Or contribuer à l'éducation et à la formation professionnelle est un apport tout aussi essentiel pour le développement des partenaires du Sud et de l'Est. »⁶⁶

Achieving institutional isomorphism by means of increasing professional trainings and student exchange programs will therefore remain an important aspect for the EU to implement their future Action Plans if a veritable legal harmonization shall take place. Beckert also defends the need of “*attraction of institutional models*” that “*is closely related to socialization processes in professional training and networks*”⁶⁷. For this scholar, institutional entrepreneurs :

“Learn the cognitive and normative frames that shape their perspectives on regulative goals and the likely means to achieve them. Socialization leads to routines and taken-for-granted institutionalized practices. Professional networks help diffuse these standards across national boundaries and thereby contribute to more homogeneous perspectives on regulative problems and appropriate solutions for them.”⁶⁸

A second hypothesis (A-6) that is provided by DiMaggio and Powell regarding the evaluation of the existence of isomorphism predicts the following situation that may result in institutional change:

“The greater the participation of organizational managers in trade and professional associations, the more likely the organization will be, or will become like other organizations.”⁶⁹

This idea brings us back to our previous example of the Inter-Non-Governmental cooperation between the Swedish NGO Kvinna till Kvinna and its Lebanese Homologue Kafa. Veritable substantial change has been achieved within existing laws of the Lebanese Criminal Law by means

⁶⁶ Coustillière, J.-F. (2015). L'Union Européenne et ses partenaires face au besoin de sécurité en Méditerranée. *Confluences Méditerranée*, 3(94), 181-195

⁶⁷ Cit. op. Beckert, J. (2010)

⁶⁸ Ibid

⁶⁹ Cit.op. DiMaggio, P. J., & Powell, W. (1983)

of this Non-Governmental Cooperation. The example of Law n° 293 provided in the preceding Chapter will serve as an example to describe the impact of these organizations, and the normative force that a NGO can exert upon their corresponding governments. These actors have worked together throughout a social networking, exchanging ideas and strategies for drafting a law on the protection of Lebanese women against domestic, enhancing hence institutional isomorphic change by means of their organizational cooperation. Furthermore, this cooperation provides an example of the influence that local NGOs in Lebanon dispose and their greater exposure to the donor as well as the financial visibility in comparison to intergovernmental organizations, leading hence toward a better implementation of institutional isomorphism.

Another major problem of both policies in particular the ENP lays in the fact that the cooperation with the EU is in a major part attributed to the elite, rendering any visibility of this policy among the civil society hidden. The economic and political aid of the ENP is masked and the civil society is not pushed toward the goal of creating a common space of cooperation and security in the Mediterranean⁷⁰. The EU program is addressed toward strengthening the institutions and only to a certain turned toward civil-society organizations. However another main source of political power and decision making lays in “*extra-institutional and non-formalized political spheres.*”⁷¹ Especially in countries with a high level of institutional corruption and deadlock such as Lebanon.

3. The uncertainty of the future of the Euro-Mediterranean – An example of Mimetic isomorphism?

On a more horizontal level, we can find to a certain extent some mimetic isomorphic elements that provide reasons for the similarities between the institutions of the Euro-Mediterranean agreements and the EU itself. Both policies, the ENP and the UFM foresee ambitious goals of homogenization in the Region of the Euro-Mediterranean. The initial and still pertaining uncertainty of these agreements did lead to the adoption of institutions that shall work in a similar way of the EU. This situation validates the Hypothesis (A-3) of DiMaggio and Powell that predicts that:

⁷⁰ Cit. op. Coustillière, J.-F. (2015)

⁷¹ Fakhoury, T. (2014). EU and Lebanon in the wake of the Arab uprising. *Middle East Policy*, 1(21), 133-143.

“The more uncertain the relationship between the means and the ends the greater the extent to which an organization will model itself after organizations it perceives to be successful.”

As discussed in some earlier chapters, this idea of uncertainty of the above mentioned agreements of Cooperation is a perpetuating constant within the newly created Euro-Mediterranean institutions. The Euro-Mediterranean relations have fundamentally changed with the creation of the EMP in 1995, based upon the idea of the construction of a Union based on the model of the EU. The question of cooperation among those different countries has never been stronger, even though a lot of uncertainty with regards to the means remains. In order to implement the mostly European vision of a greater Euro-Mediterranean Region, this project of cooperation has been deeply inspired by the EU itself. This is true if we take a look at the institutional level. The case of the UFM is therefore exemplary. Executive bodies such as the Co-presidency have been created, fulfilling some how similar goals as the Commission of the EU. Legislative institutions can be found within the idea of a Euro-Mediterranean Parliamentary Assembly (EMPA), covering the idea of a Euro-Mediterranean parliament, based upon the idea of the European transnational parliament. An inter-ministerial institution, the UFM Senior Officials, has been established functioning as a forum of exchange between the different Member States, such as it is the case to some extent of the EU Council. There was never as much cooperation and dialogue among the different countries of the Euro-Mediterranean as today, albeit it's relative poor success in terms of actual political and legal change. On a more material the similarities between the ENP Agreements and the TFEU or the TEU are considerable. In this vein, both types of treaties follow a similar type of obligations that shall be respected and implemented among the signing partners. In this vein, both agreements foresee actions as varied as dealing with immigration issues, rules of origin, economic cooperation, transportation, communication, human rights, justice, democracy, governance, environment and intercultural dialogue.

The foundations for a truly Euro-Mediterranean Union have been laid down, and just as much as for the teleological construction of the EU itself, they have to be continuously be reformed and deepened, in order to become a more functional Union in the future. This leads us directly the second Hypothesis (A-4) of DiMaggio and Powell that predict that:

“The more ambiguous the goals of an organization, the greater the extent to which the organization will model itself after organizations that it perceives to be successful.”

The project of this Union for the Mediterranean and the creation of a European Neighborhood more in line with the European economic, political, social and legal traditions is, to say the least, an almost over-ambiguous project of international cooperation. The mere fact of uniting 43 European and Mediterranean countries in one single Declaration of cooperation is already reason enough to highlight the degree of ambiguity. Adding to this the various geopolitical difficulties, especially the ongoing conflicts in the Middle East, transform this vision into a seemingly impossible project. However, the foundations for a future cooperation and hopefully a successful outcome are laid down. The ENP may constitute an intermediate policy, that will work toward the harmonization on a geographical differentiated level, bringing the countries of the Mediterranean closer together, allowing them hence in the future to induce considerable reforms in the UFM, such as for instance signing a binding treaty as it was the case for the EU upon which the initial inspiration came from. This position is also confirmed by Ivan Martín that supports the vision that:

“Une véritable Union comme celle imaginée au début de l’UpM par les représentants de la France, quand ils invoquaient l’exemple de la Communauté Européenne du Charbon et de l’Acier (CECA), requiert, comme la CECA alors, un Traité constitutif et juridiquement contraignant, qui régule la configuration institutionnelle et la prise de décisions, un budget propre et une bureaucratie dédiée. Or, une telle configuration ne semble ni politiquement ni techniquement faisable dans le contexte méditerranéen actuel.”⁷²

B. The limits of institutional isomorphism - National and regional obstacles as limiting forces for isomorphism

The particularly different political and legal situation of most Mediterranean countries and the ongoing geopolitical conflicts constitute somewhat a limitation to the institutional theory of isomorphism. Beckert supports this theory of limitation by stating that:

⁷² Cit. op. Martín, I. (2010)

“Homogenization [can] fail despite a one-sided distribution of power and the clearly stated political will to achieve convergence with the Western political model (...) despite power imbalances [and] current attempts of the West to democratize countries in the Middle East after military intervention”⁷³

The situation of Lebanon is a particularly exemplary case due to its geographical situation and its unique national institutions founded on the respect of the sectarian components of the Lebanese society. In this vein, harmonization and legal alignment are slowed down due to the existing internal conflicts and the intervention of other external actors that undermine to a certain extent the process of isomorphism in Lebanon. Consequently it is important to take a closer look at the current domestic reasons that work as limitative force for organizations to build up isomorphic processes (1). However, the internal problems are combined with an increasingly unstable external Region, that contribute inherently to deteriorating the situation in Lebanon and leads consequently to a deceleration of institutional isomorphism (2)

1. Domestic dysfunctional institutions as a vector for isomorphic limitation

Ever since its creation, the modern state of Lebanon on November 22, 1943, has rarely experienced periods without external interference. Lebanon has always relied on its “*béquilles extérieures*”⁷⁴ to ensure its own stability and find some sort of domestic peace. External organizations have always played an integral part within the Lebanese institutional framework, starting with the Ottoman Empire, the French Mandate, followed by the Syrian influence after its bloody civil war during the years 1976 to 1990. The institutional crisis in Lebanon has a long lasting history and the internal games of power appropriation make it difficult to describe in detail all the events that have led the country to its current political and institutional crisis. Therefore only a schematic description will be presented within these lines, trying to highlight the most recent developments of the Lebanese institutional deadlock.

The assassination of Rafiq Hariri in 2004, followed by the adoption of a series of the UN Security Council have more recently constituted the continuation and deepening of the Lebanese

⁷³ Cit. op. Beckert, J. (2010)

⁷⁴ Tercinet, J. (2009). Liban, Conseil de Sécurité et souveraineté. *Confluences Méditerranée*, 3(70), 113-134

institutional crisis⁷⁵. Furthermore since 2005 Lebanon's competing political coalitions have driven the "country into an episodic deadlock"⁷⁶. The Israeli-Lebanon war of 2006 has driven the country once more into a dark episode of destabilization and institutional chaos, resulting in the withdrawal of all Syrian military troops and the regain of some sort of independence and sovereignty. Ever since this new political situation in Lebanon the battlefield and the fight for political power have been open to the different sectarian communities coupled with revolts of the Civil Society to implement an electoral form and implement a renewal of the old Lebanese sectarian institutions. A study on the political culture in Lebanon describes this deeply rooted fragmentation of the: « *mémoire collective libanaise qui est (...) dépendante de la segmentation confessionnelle* »⁷⁷, explained by its historical sectarian consecration among the religious communities that continues to divide the nation. This situation has been described by Hasbani who argues that :

*« Par ailleurs, la faiblesse de l'État n'offre plus d'espace institutionnel pour le partage de ce pouvoir politique entre les différentes communautés du pays du Cèdre. »*⁷⁸

This rigid institutionalization of Lebanon and the current security situation today, are some of the reasons that need to be taken into consideration when examining possible limitation of this institutional isomorphic behavior. Furthermore the ongoing polarization between the anti-Syrian and pro-Syrian groups, March 14 and March 8 have blocked any form of institutional reform. The beginning of the Arab uprisings, followed by the Syrian crisis and the flood of more than one million Syrian refugees in Lebanon has paralyzed the country. Adding to this already disturbing situation, the countries elites have postponed parliamentary election in 2013, extending their mandate illegally for 4 more years.⁷⁹ The Syrian crisis has transformed the Lebanese country and its institutions into a battlefield, creating broader conflicts between Shia and Sunnis, leading consequently the EU to increase the funding in 2013. All these above mentioned reasons constitute an attempt to explain the limited success of the UFM and to a lesser extent the ENP due to which Lebanon:

⁷⁵ Fouad, M. (2005). Le Liban après Hariri. *Outre-Terre*, 4(13), 331-334

⁷⁶ Cit. op. Fakhoury, T. (2014)

⁷⁷ Bunzel Khalil, G. (2006). *Identité en conflit et transaction*. Paris: L'Harmattan

⁷⁸ Hasbani, N. (2007). Liban : Crise politique sur fond de nouveau partage du pouvoir. *Politique étrangère*, 1, 39-51

⁷⁹ Law n° 245 and 246 adopted on April 13th of 2013

“Been called a “passive and superficial partner,” because of its inability to live up to ENP commitments due to security concerns, and the EU’s engagement there has been depicted as both lacking political leverage and grounded in ambiguity.”⁸⁰

This situation of domestic difficulties to implement any type of legal homogenization has also been described by Beckert’s and Campel in their theory of institutional isomorphism, explaining the reasons for which institutions will encounter difficulties provided that:

“The external power holder cannot overcome the self-perpetuating logics of domestic institutional arrangements, either due to their path dependence or because he or she cannot diffuse the models owing to informational, social structural, or cultural constraints. The result will not be the spread of a specific institutional form but rather new models emerging as hybrids.”⁸¹

The ENP will continue to encounter difficulties as long as the domestic institutional, social and most importantly the security questions continue to shape and dominate the day-to-day institutional work. This situation has been addressed during the last review of the ENP which will try to implement actions that are more specific regarding the actual needs of Lebanon. In this vein, a special attention will be paid toward providing aid toward the Syrian crisis, managing the instable Security Situation and working toward a fundamental reform of the Lebanese institutions.⁸² Hopefully by contributing to stabilize the political and institutional situation in Lebanon, institutional isomorphism will have a better chance of achieving a homogenization of the institutions in Lebanon.

2. Regional instability and International competition as an obstacle for institutional isomorphism and legal homogenization

Another important set of arguments that undermine the success of both European policies lays in the area of geopolitics. Lebanon’s particular situation in the Middle East, and its socio-

⁸⁰ Cit. op. Fakhoury, T. (2014)

⁸¹ Cambell, J. L. (2004). *Institutional Change and Globalization*. Princeton: Princeton University Press and Beckert

⁸² See Review of the European Neighbourhood Policy, European Commission, JOIN(2015) 50 final

demographic position contribute to numerous problems of the latter in the Region. Georges Corm has described the geopolitical situation of Lebanon as a sort of “*tampon*”⁸³ state of the Middle East, suffering substantially from all the Regional conflicts that inherently penetrate the Lebanese territory and find a fruitful ground to continue their sectarian, religious or political revolutions in Lebanon.

With regards to UFM, another important conflict that is constantly mentioned for the current immobilization of this policy is the Arab-Israeli conflict. This prevalent conflict in the Middle East, combined with the lack of incentives constitute further elements that perpetuate this situation of non-conformity of the Southern Countries with the EU norms. The geopolitical problems and the institutional deadlock that followed, have been tried to be resolved with the creation of the ENP. The adoption of bilateral agreements with the EU and every Southern Mediterranean and Eastern European country of the ENP opened the path for economic, social and legal cooperation on an individual basis. However, this strategy created and widened the difference among the different Partner States as its success varies from one country⁸⁴ to another. This is the reason for which each country advances at its own pace, contributing hence to the creation of increasing differences. Nevertheless this strategy seems to be the only way to currently continue a functioning solution for implementing social, economic and political reforms in the countries of the ENP, and which might lead in a foreseeable future to reform the UFM and create closer relations among all Member States.

The multiplicity of other international institutions that function as organizations of institutional isomorphism also contribute to lessen the effect of the European institutions. As discussed earlier, the EU is not the sole organization that tries to finance and implement normative projects in Lebanon. Other institutions such as the Islamic Development Bank or the Kuwait Fund for Arab Economic Development, fund similar projects within the country. To increase the visibility and the success of the implementation of the various European projects, a cooperation among these different organizations to co-found projects might constitute a solution toward a more effective and aligned way of implementing veritable reforms in Lebanon. This solution would correspond the field Hypothesis (B-3) of Paul DiMaggion and Powell that predicts that :

⁸³ Corm, G. (2006). Sortir du cercle vicieux et du statut d'Etat tampon? *Confluences Méditerranée*, 1(56), 99-108

⁸⁴Cit. op. Coustillère, J.-F. (2015)

“The fewer the number of visible alternative organizational models in a field, the faster the rate of isomorphism in that field.”

The current multiplicity of alternative organizational models in Lebanon are therefore another substantial explanation as to why institutional isomorphism in the specific field of legal alignment is rather unsatisfying.

CHAPTER V

CONCLUSION

*Societies or elites, so it seems, are smart, while organizations are dumb. Societies comprise institutions that mesh together comfortably in the interests of efficiency, the dominant value system, or, in the Marxist version, capitalists Organizations, by contrast are either anarchies federations of loosely coupled parts or autonomy-seeking agents, laboring under such formidable constraints as bounded rationality, and unclear technologies.*⁸⁵

The processes of globalization and the intensification of the world society have contributed to an increasing form of institutional isomorphism in the world, or to say, has led towards a wave of legal exportations of the best suited model. It is true, that the world society has become more aligned and harmonized thanks to the forces of institutional isomorphism. Nevertheless some societies still struggle to follow the course of international normative harmonization due to a combination of domestic conflicts and maybe also a certain rejection of external intervention. Institutional isomorphism therefore seems to encounter considerable difficulties, especially when it is applied to societies that are fundamentally different to the externally applied models. The memory of colonization and Western hegemony combined with current domestic institutional problems may constitute some of the reasons for the relatively low success of isomorphism among these countries. However, this does not mean that Non-Western do not want to align to Western models. In contrast, those countries, and in this case Lebanon, are willing to implement legal reforms and adopt norms that are more aligned, particularly with those of the European countries. The problem lays in the way the European institutions fail to exert a veritable force of isomorphic harmonization in Lebanon, leading towards such means. Indeed, the already existing institutions in Lebanon and its legal framework are almost entirely modelled toward the institutions of some European countries. Rather than being a rejection of the West or the French mandate, the current institutional crisis in Lebanon can be explained by the fact that formerly processes of institutional

⁸⁵ Cit. op. DiMaggio, P. J., & Powell, W. (1983)

isomorphism have barely taken into consideration the geopolitical situation and the consequences of creating a sectarian system in Lebanon, leading the country to this future institutional chaos. Lebanon, seems, as most non-Western countries as a Western laboratory of institutional experiments, trying to constitute a European attempt to set up a democratic system without regarding the socio-geographic components of this country. The processes of institutionalization and democratization in Europe took more than two centuries. Various systems have failed, been reformed, rejected, and replaced, before veritable functioning institutions have seen the day.

The current crisis in Lebanon demonstrates that the Lebanese governing elite and the Civil Society try to find “*their own way*” of reforming the institutions and make “*their own experience*” with democracy and the idea of a Modern state just as much as this was the case for the European civilizations. This does not mean that there are no isomorphic processes going on in Lebanon. In contrary, Lebanon is evolving towards a country that is more aligned with the legal environment and rulings of the European Countries than it was a few decades ago. The process of isomorphism in Lebanon may not be at a pace that the ENP and the UFM authors foresaw when adopting the different international agreements, but it is an ongoing process. The example of the two legislative act on Human Rights, and the different laws on economic development, constitute some examples of isomorphic processes in Lebanon.

TABLES

Table 1 – Art. 188 of the Lebanese Criminal Code

	Old Article 188	New Article 188
العربي	<p>لا يعد جريمة أي فعل يجيزه القانون. يجيز القانون</p> <p><u>1. أنواع التأديب التي ينزلها الآباء والأساتذة بالأولاد على نحو ما يبيحه العرف العام</u></p> <p>2. العمليات الجراحية والعلاجات الطبية المنطبقة على أصول الفن شرط أن تجري برضى العليل أو رضى ممثليه الشرعيين أو في حالات الضرورة الماسة</p> <p>3. أعمال العنف التي تقع أثناء الألعاب الرياضية إذا روعيت قواعد اللعب</p>	<p>لا يعد جريمة أي فعل يجيزه القانون. يجيز القانون</p> <p><u>1. أنواع التأديب الغير العنفية التي يمارسها الآباء والأمهات على أولادهم، على أن لا تترك أي أثر على جسد الأولاد أو تحدث ضررا في صحتهم الجسدية أو النفسية</u></p> <p>2. العمليات الجراحية والعلاجات الطبية المنطبقة على أصول الفن شرط أن تجري برضى العليل أو رضى ممثليه الشرعيين أو في حالات الضرورة الماسة</p> <p>3. أعمال العنف التي تقع أثناء الألعاب الرياضية إذا روعيت قواعد اللعب</p>
English	<p>Is not considered a crime any act that is permitted by law. The law allows:</p> <p><u>1. Disciplinary acts inflicted upon children by their parents and their teachers as permitted by general custom.</u></p> <p>2. Operations and medical treatments applicable to the sources of art provided that the act takes place with the consent of the person or is legitimately accepted by his representative or is due to cases of urgent necessity.</p> <p>3. Acts of violence during sportive activity if according to the game</p>	<p>Is not considered a crime any act that is permitted by law. The law allows:</p> <p><u>1. Non-violent disciplinary acts exercised by parents to their children, that do not leave any traces on the body of the children or result in physical or mental health damage</u></p> <p>2. Operations and medical treatments applicable to the sources of art provided that the act takes place with the consent of the person or is legitimately accepted by his representative or is due to cases of urgent necessity.</p> <p>3. Acts of violence during sportive activity if according to the game</p>

Table 2 – Art. 487 of the Lebanese Criminal Code

	Old Article 487	New Article 487
العربي	<p>- تعاقب <u>المرأة الزانية</u> بالحبس من ثلاثة أشهر إلى سنتين.</p> <p>- ويقضى بالعقوبة نفسها على شريك الزنى إذا كان متزوجا وإلا فبالحبس من شهر إلى سنة.</p> <p>- فيما خلا الإقرار القضائي والجنحة المشهودة لا يقبل من أدلة الثبوت على الشريك إلا ما نشأ منها عن الرسائل والوثائق الخطية التي كتبها.</p>	<p>- يعاقب <u>على الزنا الذي يرتكبه أي من الزوجين</u> بالحبس من ثلاثة أشهر إلى سنتين</p> <p>- ويقضى بالعقوبة نفسها على شريك الزنى إذا كان متزوجا وإلا فبالحبس من شهر إلى سنة.</p>
English	<p>Article 487:</p> <p>- <u>A woman that commits adultery</u> shall be sentenced to a term of imprisonment of no less than three months and no more than two years.</p> <p>- The same sentence shall apply to partners in adultery where they are married; otherwise they shall be sentenced to imprisonment for not less than one month and not more than one year.</p> <p>- With the exception of the judicial decision of the remarkable and misdemeanor that does not accept evidence against the partner, except for those that are established in letters and documents written by the partner.</p>	<p>New Article 487:</p> <p>- <u>Adultery committed by one of the spouses</u> shall be sentenced to a term of imprisonment of no less than three months and no more than two years.</p> <p>- The same sentence shall apply to partners in adultery where they are married; otherwise they shall be sentenced to imprisonment for not less than one month and not more than one year.</p>

Table 3 – Art. 448 of the Lebanese Criminal Code

	Old Article 488	New Article 488
العربي	<p>- يعاقب <u>الزوج</u> بالحبس من شهر إلى سنة إذا ارتكب الزنا في البيت الزوجي أو اتخذ له خلية جهارا في أي مكان كان</p> <p>- وتنزل العقوبة نفسها بالمرأة الشريك.</p>	<p>- يعاقب <u>أي من الزوجين</u> بالحبس من شهر إلى سنة إذا اتخذ له خلية جهارا في أي مكان كان</p> <p>- وتنزل العقوبة نفسها بالشريك.</p>
English	<p>- <u>The spouse</u> shall be punished to imprisonment for not less than one month and not more than one year if <u>the adultery was committed in the marital home or took his concubine openly in any place whatsoever.</u></p> <p>- The partner shall be subject to the same sentence.</p>	<p>- <u>Either one of the spouses</u> shall be punished to imprisonment for not less than one month and not more than one year <u>if he/she takes a lover in public.</u></p> <p>- The partner shall be subject to the same sentence.</p>

Table 4 – Art. 489 of the Lebanese Criminal Code

	Old Article 489	New Article 489
العربي	<p>- لا يجوز ملاحقة فعل الزنا إلا بشكوى <u>الزوج</u> واتخاذ ه صفة المدعي الشخصي.</p> <p>- لا يلاحق الشريك أو المتدخل إلا <u>والزوج</u> معا .</p> <p>- لا تقبل الشكوى من الزوج الذي تم الزنا برضا ه .</p> <p>- لا تقبل الشكوى بانقضاء ثلاثة أشهر على اليوم الذي اتصل فيه الجرم بعلم <u>الزوج</u>.</p>	<p>- لا يجوز ملاحقة فعل الزنا إلا بشكوى <u>أحد الزوجين</u> وإتخاذ مقدم الشكوى صفة المدعي الشخصي</p> <p>- لا يلاحق الشريك أو المتدخل الا <u>والزاني</u> معا</p> <p>- لا تقبل الشكوى من الزوج الذي تم الزنا برضا ه .</p> <p>- لا تقبل الشكوى بإنقضاء ثلاثة أشهر على اليوم الذي اتصل فيه الجرم بعلم <u>الشاكي</u></p>

	<p>- إسقاط الحق عن الزوج أو الزوجة يسقط دعوى الحق العام والدعوى الشخصية عن سائر المجرمين.</p> <p>- إذا رضي <u>الرجل</u> باستئناف الحياة المشتركة تسقط الشكوى.</p>	<p>- إسقاط الحق عن الزوج أو الزوجة يسقط دعوى الحق العام والدعوى الشخصية عن سائر المجرمين</p> <p>- إذا رضي <u>المدعي</u> باستئناف الحياة المشتركة تسقط الشكوى</p>
English	<p>- Adultery shall only be prosecuted upon the complaint of <u>the spouse</u> and where the plaintiff associates in a court action with the public prosecutor</p> <p>- Partners or accomplices shall only be prosecuted together with <u>the spouse</u></p> <p>- A complaint filed by the spouse having given his/her consent to the adultery shall be null</p> <p>- A complaint filed three months after the <u>man</u> became informed of the crime shall not be accepted;</p> <p>- Depriving the spouse of his/her right, results in annulling public and private actions against the offenders;</p> <p>-Where the plaintiff accepts to resume life in common, charges are dropped.</p>	<p>Adultery shall only be prosecuted upon the complaint of <u>one of the spouses</u> and where the plaintiff associates in a court action with the public prosecutor</p> <p>Partners or accomplices shall only be prosecuted together with <u>the adulterer</u>;</p> <p>A complaint filed by the spouse having given his/her consent to the adultery shall be null</p> <p>- A complaint filed three months after the <u>plaintiff</u> became informed of the crime shall not be accepted;</p> <p>- Depriving the spouse of his/her right, results in annulling public and private actions against the offenders;</p> <p>- Where the plaintiff accepts to resume life in common, charges are dropped.</p>

Table 5 – Art. 523 of the Lebanese Criminal Code

	Old Article	New Article
العربي	<p>- من <u>اعتاد</u> حض شخص أو أكثر ذكرا كان أو أنثى لم يبلغ الحادية والعشرين من عمره على الفجور و الفساد أو على تسهيلهما له أو مساعدته على إتيانهما عوقب بالحبس من شهر <u>إلى سنة وبغرامة من خمسين ألف إلى خمسمائة ألف ليرة</u></p> <p>- ويعاقب العقاب نفسه من تعاطى الدعارة السرية أو سهلها</p>	<p>- من حض شخصا أو أكثر ذكرا كان أو أنثى لم يبلغ الحادية والعشرين من عمره على الفجور و الفساد أو سهلها له أو مساعدته على إتيانهما عوقب بالحبس من شهر الى سنة وبغرامة تتراوح بين الحد <u>الأدنى للأجور وثلاثة أضعافه</u></p> <p>- يعاقب بالعقوبة ذاتها من تعاطى الدعارة السرية أو سهلها</p> <p>- مع الإحتفاظ بأحكام المادة <u>529 معطوفة على المادة 506 تشدد العقوبة وفاقا لأحكام المادة 257 من هذا القانون إذا وقع الجرم ضمن الأسرة وذلك دون الإعتداد بسن الشخص الواقع عليه الجرم .</u></p>
English	<p>- Whoever used to instigate one or more persons, male or female, aged less than twenty one years to engage in prostitution and corruption and whoever shall facilitate the same by aiding or abetting, shall be sentenced to imprisonment of <u>one month to one year and a fine of fifty thousand to five hundred thousand pounds.</u></p> <p>- Shall be subject to the same sentence whoever is involved in secret prostitution or engages in the facilitation thereof.</p>	<p>- Whoever shall instigate one person or more, male or female, that has not completed the age of twenty one to engage in prostitution or corruption, and whoever shall facilitate the same by aiding or abetting, shall be sentenced to imprisonment <u>between one month and one year and shall be subject to a fine varying between the minimum wage and three folds the same.</u></p> <p>- Shall be subject to the same sentence whoever is involved in secret prostitution or engages in the facilitation thereof.</p>

		- <u>Without prejudice to the provisions of Article 529 annexed to Article 506, the sentence shall be increased as per the provisions of Article 257 of the present Law where the crime is committed within the family regardless the age of the person against whom the crime is committed.</u>
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Table 6 – Art. 527 of the Lebanese Criminal Code

	Old Article	New Article
العربي	كل امرئ لا يتعاطى مهنة <u>بالفعل واعتمد</u> في كسب معيشتة أو بعضها على دعارة الغير عوقب بالحبس من ستة أشهر إلى سنتين وبغرامة من عشرين ألف إلى مائتي ألف ليرة	كل امرئ يعتمد في كسب معيشتة أو بعضها على دعارة الغير عوقب بالحبس من ستة أشهر إلى سنتين وبغرامة تتراوح بين الحد الأدنى للأجور وضعفه مع الإحتفاظ بأحكام المادة 529 معطوفة على المادة 506 من هذا القانون تشدد العقوبة وفقا لأحكام المادة 257 من قانون العقوبات إذا وقع الجرم ضمن الأسرة، وتضاعف العقوبة إذا رافق الجرم أي شكل من أشكال العنف أو التهديد.
English	- Whoever shall be involved in the profession of some of them earn a living or the prostitution of others shall be punished by imprisonment of six months to two years and a <u>fine of twenty thousand to two hundred thousand pounds.</u>	- Whoever shall rely on the prostitution of a third party to gain his/her living, whether fully or partially, shall be sentenced to a term of imprisonment of no less than six months and no more than two years and shall be <u>fined not less the minimum wage and not more double its amount.</u> <u>- Without prejudice to the provisions of Article 529 added to Article 506 of the Present law, the sentence shall be increased according to the Article 257 of the Penal Code if the offense occurred within the family, the penalty shall be doubled if the offense was accompanied by any form of violence or threats</u>

Table 7 – Art. 547 of the Lebanese Criminal Code

	Old Article	New Article
العربي	- من قتل إنسانا قصدا عوقب بالأشغال الشاقة من خمس عشرة سنة إلى عشرين سنة.	- من قتل إنسانا قصدا عوقب بالأشغال الشاقة من خمس عشرة سنة إلى عشرين سنة. <u>- تكون العقوبة من عشرين سنة إلى خمسة وعشرين سنة إذا ارتكب فعل القتل أحد الزوجين ضد الآخر.</u>
English	- Whoever shall commit homicide purportedly shall be sentenced to hard labor between fifteen and twenty years.	- Whoever shall commit homicide purportedly shall be sentenced to hard labor between fifteen and twenty years. <u>- The sentence shall vary between twenty and twenty five years, where homicide is committed by one spouse against the other</u>

Table 8 – Art. 559 of the Lebanese Criminal Code

	Old Article	New Article
العربي	تشدد العقوبات المذكورة في هذه النبذة وفاقا لأحكام المادة 257 إذا اقترف الفعل بإحدى الحالات المبينة في <u>الفقرة الثانية من المادة 547 وفي المادتين 548 و 549</u>	تشدد العقوبات المذكورة في هذه النبذة وفاقا لأحكام المادة 257 إذا اقترف الفعل بإحدى الحالات المبينة في <u>الفقرة الثانية من المادة 547 وفي المادتين 548 و 549 من هذا القانون</u>
English	The sentences herein shall be increased as per the provisions of Article 257 where the offense is committed in one of the cases established in the <u>Articles 548 and 549</u>	The sentences herein shall be increased as per the provisions of Article 257 where the offense is committed in one of the cases established in <u>Paragraph two of Articles 547 and 549 of the Present Law.</u>

Table 9 – Art. 618 of the Lebanese Criminal Code

	Old Article	New Article
العربي	<p>- من دفع قاصرا دون الثامنة عشرة من عمره إلى التسول جرا لمنفعة شخصية عوقب بالحبس من ستة أشهر إلى سنتين وبالغرامة من عشرين ألف إلى مائتي ألف ليرة</p>	<p>- من دفع قاصرا دون الثامنة عشرة من عمره إلى التسول عوقب بالحبس من ستة أشهر إلى سنتين وبغرامة <u>تتراوح بين الحد الأدنى للأجور وضعفه</u></p>
English	<p>- Whoever shall incite a minor aged less than 18 years to beg on personal benefit shall be punished by imprisonment of six months to two years and a <u>fine of twenty thousand to two hundred thousand pounds</u></p>	<p>- Whoever shall incite a minor aged less than 18 year to begging shall be sentenced to a term of imprisonment of no less than one month and no more than one year and shall be subject <u>to a fine of no less than the minimum wage and no more than double its amount.</u></p>

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