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Introduction

In the aftermath of the Cold War, most democratic countries reviewed their security policies and started to adopt new security strategies to counter new risks stemming from the activities of terrorist groups and transnational criminal gangs. These countries began to reconsider their security legislations, in addition to creating special and specialized security services, to develop civil and military controlling mechanisms, in order to preserve the security of the State and its citizens within a democratic regime, endeavoring to maintain people's rights and freedoms, without affecting their security.

Lebanon, that lives in an unsteady region and in the light of a global system which is swinging between unipolarity and multipolarity, was affected and is still exposed to new threats on the internal level, particularly in the field of terrorism and organized crime, in addition to external threats and traditional problems Lebanon suffers from; these troubles and dangers which made some believe that Lebanon is still exposed to security risks. Henry Kissinger said, one day, that "Lebanon is a perfect country for conspiracies, not only against it, but against the whole Arab world."

In the light of this Lebanese situation with reforming attempts within the security sector in most of the countries of the world, we are tempted to ask ourselves if the Lebanese legislations and their execution succeeded in setting up appropriate frameworks for the work of these security institutions, in a way that will allow them to prevent security threats. Are these legislations still valid for this new era of security challenges?

To answer these questions, we will look into the main legislative texts governing the work of the Lebanese security institutions, whether of a preventive, curative or repressive nature, and examine the extent of their compatibility and synergy with the scope of the current threats and dangers.

These texts and their field of implementation will be tackled in two chapters: the first chapter deals with the legislative texts on the political and strategic level, through a review of the Constitution and of the laws pertaining to the main benchmark of security services, whereas the second chapter examines the texts on an executive level; i.e. these texts pertaining to the prerogatives and relationships of the following security services: the Army, the Directorate of Intelligence Services, the Directorate of Internal Security Forces (ISF) and their sections, and both General Directorates of General Security and State Security.

Chapter 1: Legal texts on the Political and Strategic Level

The security policy of any country is a series of plans drawn by the government, which sets the objectives to be accurately achieved after getting to know the security problems and their reasons. As for the strategy according to Liddell Hart concept, “it is the study, the analysis, and the assessment of choices available to the State and how to invest these different capacities and resources to achieve the objectives set by the political authority.”¹

Out of these two definitions, we conclude that the security policy sets the objectives to be achieved. As for the strategy, it is about how to achieve these objectives within the best available resources. The security strategy emerges within the frame of a studied plan encompassing available means and set objectives, which should be clearly set, realistic or achievable, and reasonable, relying on the capacities of the State, the means being in harmony with the objectives, in addition to their sustainability, their compulsory implementation and relative flexibility upon implementation.

The security plan set up by the seven industrial countries (G7) and Russia to fight terrorism according to the ministerial declaration resulting from their meetings in Paris, on July 30, 1996, had these characteristics and included numerous clear-cut items, among which adopting appropriate legislations which contribute to designing and implementing plans, as well as amending existing legislations in a way that serves the security strategy².

If it is at this stage that lies the importance of the security and national security policy in democratic countries, who draws the security policy and who defines the national strategic objectives according to the Lebanese security legislations? Is there a clear security policy reflected through Lebanese legislations? This is what we are going to try to deal with in this chapter, based first on the Lebanese Constitution and, then, on the other relevant legislations and legal texts.

¹ Liddell HART: **The Strategy and its History Across the World**, translated by Lt Colonel Al Haytham AL AYYOUBI, Dar Al Taliaa, Beirut, 1967, p. 158.

² Mohammed AL AYYOUBI: **General Vision of Security – Towards a Security Sociology**, first version, Beirut 2000, p. 294.

Section 1: The Security Policy in the Lebanese Constitution

The Lebanese Constitution before Taef did not point out the security policy, not even the party responsible for setting up the State's public policy, except for entrusting the ministers, in general, with the responsibility of the government's public policy, in paragraph 1 of the old Article 66³. This public policy comes out in the government's plan, which is raised to the Parliament through the Prime Minister or a Minister representing the Prime Minister, according to the second paragraph of the mentioned article.

However, the Taef amendments introduced texts dealing with this issue in more than one article, whether indirectly, when the executive authority has been transferred from the President of the Republic to the Council of Ministers, as stipulated in Article 17⁴, or directly, as stipulated in the new article 65, stipulating that "the executive authority is entrusted with the Council of Ministers, the authority to which the armed forces are subject and among the prerogatives it exercises:

1-Setting up the State's public policy in all fields, outlining draft laws and organizational decrees and adopting necessary decisions to be implemented.

2-Seeing to implement the laws and supervising the activities of all the State's bodies – security, military and civil institutions and administrations, without exception, etc."

This text shows clearly that setting up the security policy, which is part of the public policy, has become within the prerogative of the Council of Ministers, with which the executive authority is entrusted, as it is the case in the parliamentary regimes, after being entrusted with the President of the Republic, according to the text of Article 17, of the Constitution of the First Republic (before Taef).

As for the implementation of the security policy undertaken through delineating strategic objectives, the new Article 64⁵, i.e. amended after Taef, considers the Prime Minister

³ Text of the old article 66: "The Ministers assume, in general, the responsibility of the government's public policy and also assume, individually, the responsibility of their personal acts. The government's statement is prepared and submitted to the Parliament through the Prime Minister or the Minister representing him."

⁴ Old text of Article 17: "The executive authority is entrusted with the President of the Republic, he is in charge of with the assistance of the Ministers, according to the provisions of this Constitution."

⁵ The text of the new Article 64: "The Prime Minister is the head of the government. He speaks on behalf of the government and is considered responsible for the implementation of the public policy set up by the Council of Ministers. He exercises the following prerogatives: 1- He heads the Council of Ministers and is de facto the Vice-President of the Higher Defense Council (HDC). 2- ..."

explicitly responsible for the implementation of the public policy and implicitly responsible for the implementation of the security policy, as mentioned in paragraph 1 of the last Article 64, since he is de facto the Vice-President of the Higher Defense Council (HDC), headed by the President of the Republic, according to paragraph 1 of the new Article 49⁶.

This means that the Lebanese Constitution delineates the governmental authority in charge of setting up the security policy and designates the President and the Vice-President of the Higher Defense Council, which has been created by virtue of a previous law – we will talk about it at a later stage – leaving to the government and to the Higher Defense Council to draw the security policy and set its strategic objectives.

However, the first paragraph of Article 49 which entrusted the President of the Republic with the presidency of the Higher Defense Council, added: “The President of the Republic is the Commander-in-Chief of the Armed Forces, which fall under the authority of the Council of Ministers.” The new Article 65 stipulated the following: “The executive authority is vested in the Council of Ministers,” the authority to which the armed forces are subject. It is well-known that the obedience is to the leader, which has created confusion and ambiguity among the constitutional texts, regarding the political reference of armed forces and which authority gives them orders. This has led to a question about the security policy executed by the security services responsible for the execution of this policy, in the light of the contradiction of orders which may sometimes occur, depriving then them from the strategic vision which is more than a necessity, to achieve its objectives. So what is the reason behind this contradiction? And what are the roots of this ambiguous constitutional text?

⁶ Text of paragraph 1 of the new Article 49: “The President of the Republic is the head of the State and the symbol of State’s unity. He shall safeguard the Constitution and Lebanon’s independence, unity and territorial integrity, according to the provisions of the Constitution. The President shall preside over the Higher Defense Council and be the Commander-in-Chief of the Armed Forces, which fall under the authority of the Council of Ministers.”

Section 2: Political Leadership of Armed Forces

The Constitution of 1926 did not mention security or armed forces and their reference, i.e. their affiliation, neither in terms of command nor in terms of supervision, because the security and armed forces the colonizing authority started to create, were subject to the authority and to the supervision of the French High Commissioner, under the French mandate. The Constitution did not refer to this point, in order not to vest it in any Lebanese authority, but to keep it directly under the supervision of the High Commissioner.

After Lebanon's independence, we can make a distinction between two major phases: the first one, before Taef, where the executive authority was vested in the President of the Republic; the second one, after the Taef constitutional amendments, the said authority was vested in the Council of Ministers.

First Requirement: Leadership of Armed Forces Before Taef:

After Lebanon's independence, Lebanese legislations were drafted to link the armed forces to the Lebanese political leadership. Since the Lebanese State took the commands in 1947 of what used to be called in the French army "*the Brigade of the Orient*", the laws and legislative decrees started to organize these forces and link them to the executive authority which was vested in the President of the Republic, according to Articles 17 and 53 of the Constitution of before Taef⁷.

This relationship was at the disposal of the President of the Republic, whether indirectly, through ministers affiliated to him since he is the head of the executive authority, or directly, as stipulated in Article 2 of Legislative Decree No 66, 1953, stipulating putting the army and the sea and air forces under the authority of the President of the Republic. These provisions were repeated in Article 2 of Legislative Decree No 33, dated January 19, 1955, entitled organizing the Ministry of National Defense and defining the law of the army, as follows: "The Army and the sea and air forces are put at the disposal of the President of the Republic."

With the adoption of Legislative Decree No 10 in July 1967, which replaced the previous decree, Article 2 mentions the expression "the army is put at the disposal of the President of

⁷ Text of the old Article 53: "The President of the Republic appoints the ministers, designates the Prime Minister, and revokes them. He also assigns civil servants, except for the positions the appointment in which is stipulated differently by virtue of the law. He also presides official ceremonies."

the Republic.” The term “army” definitely encompasses all armed forces⁸. This legal text came in harmony with the constitutional rules in force at that time, particularly Article 17 which used to vest the executive authority within the President of the Republic, in the light of a semi-presidential political system.

On March 24, 1979, the National Defense Law No 3 was promulgated to identify the armed forces in its third article stipulating the following: “Armed forces mean the army, the internal security forces, the general security forces, and all other workers in the public sector who carry weapons considering the nature of their work.” This law, like the laws before, saw to put the army under the authority of the President of the Republic, attempting, for the first time, to state that the exercise of the President’s prerogatives is undertaken according to the provisions stipulated in the Constitution and in the laws in force⁹.

The definition of armed forces is repeated in paragraph 3 of Article 1 of the current defense law, promulgated by Legislative Decree No 102, dated September 16, 1983. The expression “the army is put at the disposal of the President of the Republic”¹⁰ was maintained. The other armed forces were excluded from this status in Article 5 of the said Decree, but Articles 6 and 7 of this Legislative Decree were added. Article 6 stipulated that the Council of Ministers itself decides about the public security and defense policy, sets its objectives and supervises their implementation. As for Article 7, it stipulated the creation of the Higher Defense Council.

Therefore, we conclude that the laws of the First Republic kept the army at the disposal of the President of the Republic, as stipulated by Article 5 of Legislative Decree No 102 which is still in force, and asserted that the exercise by the President of the Republic of his prerogatives should be according to the provisions of the Constitution and the laws in force. It also appears that the contradiction between Article 5 of the last decree and Article 6 has moved to the post-Taef Constitution.

Second Requirement: Political Leadership of Armed Forces After Taef

⁸ Bayan NOUAYHED: **Evolution of the Political and Constitutional regime in Lebanon**, 1920-1995, Doun publishing house, Beirut, 1996.

⁹ Text of Article 5 of **Defense Law** No 3/79: “The Army is at the disposal of the President of the Republic, who exercises his prerogatives according to the provisions stipulated in the Constitution and in the laws in force.

¹⁰ Article 5: As amended in Legislative Decree No 1/84/t, on September 26, 1984: “The Army is at the disposal of the President of the Republic who exercises his prerogatives according to the provisions stipulated in the Constitution and in the laws in force, particularly Articles 6 and 7 of this Legislative Decree.”

The Taef Constitution vested, in Article 49, the higher leadership of the armed forces in the President of the Republic whereas this leadership falls under the authority of the Council of Ministers in Article 65, as mentioned above, which made some people consider that these two texts present a high contradiction, which may lead to intertwined prerogatives and authorities between the President of the Republic and the Council of Ministers¹¹. The reading of these two texts clearly unveils the extent of ambiguity in the meaning. Some questioned the fact how the President of the Republic can be the Commander-in-chief and how the armed forces can be under the authority of the Council of Ministers¹².

It seems that the source of this ambiguity and contradiction goes back to the bills which were set up to deal with the Lebanese crisis. Some stipulated that the President of the Republic is the Commander-in-Chief of the Army and the President of the Higher Defense Council; like the first illustration included in the reforming programs set up by the Joint Arab Six-Partite Commission, which was constituted following the meeting of the Arab Ministers of Foreign Affairs, on January 12, 1989, in a regular session, to examine the Lebanese crisis¹³; the paper prepared by President HARIRI in 1987 and submitted to Taef Conference; and the draft document prepared by the Arab tripartite Commission.

The other part of bills, like the paper prepared by some Lebanese Islamic leaderships, delivered to the Minister of Foreign Affairs Elie SALEM, through the Syrians, on February 6, 1987¹⁴, the draft national understanding document, set up by President Hussein AL HUSSEINI¹⁵, and the draft national understanding paper adopted in Beit El Dine¹⁶, was limited to the President of the Republic heading the Higher Defense Council.

¹¹ Dr. George ABOU SAAB: **The Presidential Regime and the Prerogatives of the President of the Republic (Between the Constitutions of the First and the Second Republics)**, a study published in the book of Khalil AL HINDI and Antoine AL NASHEF: *The Lebanese Constitution Before and After Taef*, the Modern Book Institution, Tripoli – Lebanon, 2000, p. 210.

¹² Kabalan KABALAN: **Constitutional Institutions in Lebanon Between the Text and the Practice in the Light of Taef Agreement**, Sader legal publications, Beirut, 2004, p. 271.

¹³ George BKASSINI: **The Secrets of Taef in the Era of Amine GEMAYEL until the Fall of the General**, Al Taawoniya publishing house, Beirut, 1993, p. 268.

¹⁴ Khalil AL HINDI and Antoine AL NASHEF: **The Lebanese Constitution Before and After Taef**, previous reference, p. 200.

¹⁵ George BKASSINI: **The Secrets of Taef in the Era of Amine GEMAYEL until the Fall of the General**, previous reference, p. 245.

¹⁶ Id, p. 256.

By reviewing the reforming projects and propositions, presented at the Taef conference, we have noticed that they have converged over the President of the Republic heading the Higher Defense Council, without agreeing over the leadership of the armed forces. However, despite this contradiction, the expression “in charge of leadership” was added to paragraph 1 of Article 49, which requires the examination of the expression to see to which extent this expression is in harmony with the spirit of the Lebanese Constitution and treaties.

Third Requirement: Leadership of the President of the Republic over the Armed Forces

The roots of the idea of granting the command of the Army to the President of the Republic go back to the era of monarchy, when the monarchs used to be themselves in charge of the command of armies, after preparing them for this purpose through a special cultural education. However, with the emergence of the first democracy relying on a written constitution, this idea started to regress, when the authors of the first American Constitution in 1787 refused a proposal granting the President of the Republic the right of personal command over the army.

Nowadays, the command of armed forces during the war and the supervision over military operations in the democratic parliamentary regimes are entrusted within the government, since these forces are under the order of generals appointed and revoked by the government. The signature of the President of the Republic over the decrees governing the work of military authorities shall be followed by the signature of the concerned minister (Minister of Defense) who is responsible before the Parliament¹⁷.

The Taef agreement was adopted to take a democratic trend, by making the military authority subject to the civil authority, through the text about the submission of the Council of Ministers in which the executive authority is entrusted. The Council of Ministers is mandated to supervise the works of all security institutions and bodies without any exception. But the right of command over the armed forces is granted to the President of the Republic. The latter has also the right to head the Higher Defense Council. If the issue of granting him the right to head the Higher Defense Council is a natural fact, it was not even subject to discussion even

¹⁷ Antoine SAAD: **Position and Role of the President of the Republic – in the Lebanese Political Regime – Before and After the Taef Agreement** – Comparative Study, Al Halabi Legal Publications, first version, Beirut, 2008, p. 416.

in the reformative projects submitted before Taef. The discussion was and is still going on about the right of command over the armed forces.

Some estimate that the Council of Ministers takes itself the decisions regarding the armed forces. The role of the President of the Republic is restricted to send orders and instructions to these forces according to the decisions of the Council of Ministers¹⁸. Dr. Hassan RIFAI has raised a question about the “expression of command over armed forces”, being “the symbol of the nation’s unity” and the title as the Commander-in-Chief of the Army, estimating that what was mentioned in Article 49 is just a title of honor given to him¹⁹.

The other half resorts to the discussions of the Parliament, which occurred during the discussion of constitutional amendments, to reach a result, according to which the title of the Commander-in-Chief of the Armed Forces is a title of honor, not a command, i.e. he is not entitled to issue orders to the armed forces. However, this right is within the mandate of the Council of Ministers, supporting their opinion with the Taef discussions²⁰.

Some estimate that granting this right to the President of the Republic in Lebanon consecrates a sort of participation for him and provides him with a broad scope, to express his opinions, expose ideas and solutions, and give instructions according to Article 49 mandating him to preserve the independence of Lebanon and the integrity and unity of its territory. This text eliminated the risk of disposing of the armed forces, without any contradiction to the role of the President in this regard²¹.

Others conclude that the transfer of the command of the Army from the President of the Republic to the Council of Ministers illustrates a reality: the President of the Republic is unable to command the Army or an authority, with a certain confessional character, and is unable to command an army composed of individuals and officers belonging to different cultural and confessional communities.

¹⁸ Khalil AL HINDI and Antoine AL NASHEF: **The Lebanese Constitution Before and After Taef**, previous reference, p. 165.

¹⁹ Khalil AL HINDI and Antoine AL NASHEF, **The Lebanese Constitution Before and After Taef**, previous reference, p. 232.

²⁰ Kabalan KABALAN: **Constitutional Institutions in Lebanon Between the Text and the Practice in the Light of the Taef Agreement**, previous reference, p. 271.

²¹ Antoine SAAD: **Position and Role of the President of the Republic – in the Lebanese political regime – Before and After the Taef Agreement**, previous reference, p. 418.

The most objective opinion is what was exposed by one of the participants at Taef, Dr. Albert MANSOUR, who considered that the President of the Republic, after the Taef, turned into a head of State, with its territory, its people and its institutions, and the symbol of the unity of the nation. Being the head of the State gave him the presidency of two important institutions, the Parliament and the Council of Ministers, to control the synergy of their work. The President of the Republic is not the direct head of these institutions, since the latter have their direct heads. This presidency is a sponsorship presidency, not a directly controlled presidency, to conclude that the command of armed forces lies within the frame of sponsorship, not control, because the authority of decision goes back to the Council of Ministers by virtue of the Constitution²².

It seems that this trend to submit the armed forces to the authority of the Council of Ministers, responsible before the Parliament, is a democratic trend and is in harmony with the changes approved by the Taef Constitution, for the classification of the Lebanese political regime, as a parliamentary democratic regime, in addition to its reliance on some adopted consensual democratic means in some countries in the Central Europe, particularly Switzerland and Belgium, which are in agreement with the specificity of the Lebanese society imposing a sort of collective command.

The Swiss Constitution stipulated that the higher command of the Swiss armies has been granted, since 1848, by a mandate from the Federal Assembly, i.e. the Parliament, even in times of war. The principle adopted in Switzerland is that the “army which represents the people in a democratic regime always easily wins and that if an idea gets the majority, it will become a law after being voted. In case of a minority, it won’t mobilize, not even half of the army, and will probably fail²³.”

By reviewing the previous opinions, from a constitutional perspective, the government is the main source to take security decisions, considered to be the political reference of armed forces, in partnership with the Higher Defense Council. But some estimate that the military command behaved in previous periods as if it was not subject to the authority of the executive or to the oversight of the Parliament, estimating that this was due to the relationship between

²² Albert MANSOUR: **The Death of the Republic**, Dar Al Jadid, first version, Beirut, 1994, p. 251, and the book *Conspiracy Against the Taef*, published in 1993, p. 54.

²³ Jorg **SHTUSI-LAUTERBERG**: Conference published in a book entitled **The Swiss Experience in Organizing Defense and Security, Are There Lessons For Lebanon?**, prepared by Issam Fares Center for Lebanese Affairs, regarding the conference held on April 2, 2009

the command of the army and the President of the Republic, pursuant to Article 5 of the National Defense Law, which finds a constitutional coverage in the text of paragraph 1 of Article 49²⁴. It is well-known that this relationship has generated a chronic crisis in the relationship of security services with the political leadership, these services exceeding the scope of the Council of Ministers and the concerned minister.

²⁴ Nizar ABDEL KADER: **A Nation Without a Fence – the National Defensive Strategy**, first version, Shamas publishing house, Beirut, p. 375.

Section III: The Higher Defense Council

The Presidency of the Higher Defense Council did not constitute any conflict or divergence in the political points of view, or any contradiction in the legal texts, since most reforming initiatives stipulated this, including the initiatives submitted by Islamic leaderships, as mentioned in the previous paragraph.

This Council, the President of which is the President of the Republic and the Vice-President of which is the Prime Minister, according to the Constitution of the Taef, was created pursuant to Article 7 of the National Defense Law No 3, dated March 24, 1979, replaced by Legislative Decree No 102, dated September 16, 1983. This article was also amended by virtue of Law No 191, dated May 24, 2000 to become: 1- A higher defense council is created, composed of: the President of the Republic, as a President – the Prime Minister, as a Vice-President – the Minister of Defense, as a member – the Minister of Foreign Affairs, as a member – the Minister of Finance, as a member – the Minister of Interior, as a member – and the Minister of Economy as a member. The second paragraph adds the right of the President of the Higher Defense Council to call upon whoever he deems appropriate in the light of the works of the Council.

The prerogatives of this Council were set pursuant to Article 8 of the Legislative Decree dated September 16, 1983, amended by virtue of Decree No 101, dated September 26, 1984, and stipulated the following: the Higher Defense Council decides of the necessary procedures to implement the defense policy, as set by the Council of Ministers; the decisions of the Higher Defense Council remain confidential and the Council grants a particular interest to the defense mobilization which deals with the main following issues: a- Military service and compulsory service; b- Pedagogical mobilization; c- Mobilization of the economic activity with its commercial, financial, industrial, and agricultural branches; d- Mobilization of the health and medical activity; e- General mobilization of the State and the citizens, particularly civil defense; f- Mobilization of orientation and awareness-raising activities. 2- The Higher Defense Council distributes the defensive prerogatives over the concerned ministries and services, gives the necessary instructions and guidelines, follows up their implementation and approves the staff and equipment plan provided for these prerogatives.

Upon reading this text which created the Higher Defense Council, the prerogatives granted to the said Council have an exceptional character pertaining to the planning of the defense

policy and the national mobilization, in times of war and major crises²⁵. This text was the first legislative attempt to create a national commission which will determine the security strategic objectives in exceptional circumstances only, without having ongoing activities, according to what prevails in most democratic countries.

This attempt came following the drawing of the security policy which occurred, for the first time, in the Lebanese legislations, in Article 3 of Law 79, repeated in paragraph 1 of Legislative Decree No 102/1983, with the text stipulating the following: “National defense aims at consolidating the State’s capacities, developing its potential to resist any aggression against the nation’s territory and any aggression against the nation itself and ensuring the sovereignty of the State and the safety of the citizens.” This text mentions officially and for the first time the defense policy. This text follows Article 6 of the last decree to become, after amendment by virtue of Legislative Decree No 101, dated September 26, 1984: “The Council of Ministers decides about the general defense and security policy and supervises its execution.”

Therefore, we can conclude that the Lebanese legislations stipulated a general defense and security policy and entrusted the Council of Ministers with the prerogatives of designing this policy. They have also appointed a special body – the Higher Defense Council – to determine the strategic objectives to be implemented according to this policy. We can then conclude that the Council of Ministers, in partnership with the Higher Defense Council, is considered to be the main source to take security decisions, even if in exceptional conditions at least.

This was on a theoretical level. But, in reality, the implementation of this policy and its strategic objectives is not characterized by efficiency, since political tensions within this Council prevent it from playing the role it is expected to play, whether to take the necessary measures to implement the defense policy or to distribute the defense prerogatives among concerned ministries and services. The Council was unable to give the necessary relevant instructions and guidelines and follow up their implementation. It did not neither approve the staff and equipment plans which should be provided for. Moreover, the Council originally was not given the prerogative to coordinate between the services in charge of these prerogatives.

²⁵ Shawki KHALIFE: **Lebanon and Security – Comparative Study – Project of Organizing Objectives – Executive Methodology**, first version, Beirut, 1994, p. 64.

Add to that that the meetings of the Higher Defense Council are rare. In case of numerous meetings, they were to cover urgent crises²⁶. The government used to stand up, with its security and judicial services, surprised and hesitant to face the upcoming security challenges. Appointments and transfers were undertaken within the security services to improve their performance, but in vain, since there was no clearcut security and political vision and the main link between the political leadership and the security services was paralyzed, this link supposedly assuming the responsibility of translating the defense and security policy into national strategic objectives to be implemented by specialized security services.

We conclude, by reviewing the Lebanese legislations on the political and strategic levels, that some of these texts comprise flaws, others contradictions, in addition to a lack of implementation in some cases. If that is the case on the political and strategic levels, what is the status of the texts regarding the security services implementing the objectives to serve this policy?

²⁶ Nizar ABDEL KADER, **A Nation Without a Fence**, previous reference, p. 198.

Chapter 2: Legal texts on the Executive Level

If drafting the security policy is at the heart of the work of governments in democratic regimes and if delineating the strategic objectives to achieve this policy lies within the nature of the work of councils or specialized institutions working altogether and composed of the members of the government, the implementation of this policy shall be assumed by the security services which were created to this end. These services are part of the structure of the political system the evolution of which is reflected on these relevant services as well as on the whole society. These services are set up according to a preliminary plan, taking into account the number of inhabitants and the threats the State is facing, externally or internally.

Security services represent a component of the executive within the State, whether in its administrative relationship or in its organization and control over these services. Most of them are affiliated to the Ministry of Interior, in charge of security and setting up security services and exercising control over them. It is true that the current trend is to trim down the size of the armies, especially in the light of globalization and despite the regression of the police state, as it is called, and with the expansion of the State of Law or the Constitutional State. Most countries currently take into consideration the principle of security forces balance and will have an army or armies for foreign security (popular army, national guards, republican guards) and various internal security services. In democratic regimes, armies are subject to the Ministry of Defense while the security services are affiliated to the Ministry of Interior²⁷.

Lebanon adopted this way, in principle, when it linked the Army and its institutions to the Ministry of Defense²⁸ and the remaining security services to the Ministry of Interior²⁹, except for the State Security Directorate, which is affiliated to the Higher Defense Council. The Lebanese legislations started to organize security services since the fifties of the previous

²⁷ Record of research and scientific papers delivered at: Seminar on the Society and Security in its third annual session, **Security and Community Institutions – Joint Responsibility**, held in the headquarters of the King Fahd Security College, Riyadh, September 11-24, 2004, Part 1, Publications of the Center of Research and Studies in King Fahd Security College, p. 717.

²⁸ Article 15 of the National Defense Law, amended by virtue of Legislative Decree No 1, dated September 26, 1984, replaced by the following text, stipulated: “The Ministry of National Defense, with all its institutions, is subject to the authority of the Minister of National Defense, who is in charge of performing all their duties.”

²⁹ Article 12 of the National Defense Law stipulates that preserving internal security is the responsibility of the Minister of Interior, with due consideration to the provisions stipulated by the special laws. By virtue of a decree taken in the Council of Ministers, the Ministry of National Defense may be mandated to provide military equipment and training sessions to the Ministry of Interior.

century, most importantly the legislative decrees which were adopted in 1959, delineated duties, and organized the structures of the Lebanese State's institutions, especially military and security institutions. If these articles divided the affiliation of security services as mentioned above, how did these texts deal with the organization of these services and their duties?

Section 1: The Services Affiliated to the Ministry of Defense

Pursuant to Article 15 of the National Defense Law, the Ministry of National Defense with all its institutions is subject to the authority of the Minister of National Defense. The institutions concerned by Article 15 are enumerated in the amended Article 16: The Army – General Directorate of Administration – General Inspection – Military Council. Article 4 of Decree No 3771, dated January 22, 1981, which organizes the army, stipulates the affiliation of the Directorate of Intelligence Services to the Commander-in-Chief of the Army, by virtue of Article 28 of the National Defense Law. Our research will be limited to the Army's institution, as a curative security service, and to the Directorate of Intelligence Services in the army, as a preventive security service.

First Requirement: The Law of Defense and the Army

The Army is originally responsible for foreign security, i.e. defending the territory of the State. This responsibility is within the requirements to maintain the sovereignty of every State, which cannot be abandoned, neither in the past nor in the present. Defending the borders against any external aggression and guaranteeing internal security are within the State's responsibility, since the era of the guard state till the state of providence. It is true that the army plays the role of the external fence. However, this role is complementary with the internal security services and supplants them in case of serious incidents or violations threatening the State's security and stability, and the failure of security authorities to control them. This is what happened and happens in many countries, like in China in 1988, in Indonesia at the beginning of the nineties, in Algeria at the beginning of the nineties and in Lebanon many times, lately and not lastly, the incidents of Nahr Al Bared. The Army intervenes since it is considered to be the central security service, even though many countries see not to involve the army in security activities, unless in extreme necessity, because the intervention of the Army means that the security issues in the State have reached their most dangerous status.

The Lebanese Army, as it is the case for other armies, is the institution which is originally in charge of defending the State against foreign threats, because national defense, basically, aims at consolidating the State's capacities and developing its potential to resist against any aggression on the national territory or any aggression against it and to ensure the sovereignty of the State and the safety of the nation, pursuant to Article 1 of the National Defense Law³⁰. However, this main duty did not prevent and does not prevent the army from performing other national obligations, starting with civil peace and stability and the protection of institutions, till the use of social and developmental fields, provided that these obligations do not hinder its main obligations and to have such a use by virtue of a decree, upon the proposal of the Ministry of Defense and the competent minister³¹.

Lucien PYE said in his study, "The Army in the Process of Economic Modernization", 1966, that "for the few past years, those going deeper into the study of developing regions wouldn't realize that the military institution will become one day the main efficient group in the process of nation building³²." The Lebanese Army managed to be the backbone which maintains the coherence between the different groups of the Lebanese society which has suffered and is still suffering from cracks threatening the unity of the nation.

We then see that the Army plays a main social and security role within the nation. It is true that its main mission consists of protecting foreign borders. However, it is a large security reservoir for the other different security services. It is also one of the pillars of the main Lebanese structure.

The Lebanese people agreed over the army and the importance of its national role, but were divided before the Taef regarding the doctrine of the Army and its security role on the internal level. This was due to the lacking of a clear security policy and the non-organization of a strong army capable of implementing such a policy, which threatened the unity of the country. After drafting a clear doctrine for the army, it is necessary to draw a security policy,

³⁰ Paragraph 1 of Article 1 of Decree No 1983/102: National Defense aims at consolidating the capacities of the State and developing its potential to resist against any aggression on the national territory or against it and guaranteeing the sovereignty of the State and the security of the citizens.

³¹ Paragraph 2 of Article 1 of Decree No 1983/102: Armed forces may be used in the social and developmental fields, provided that these obligations do not hinder their main duties. This use is decided by virtue of a decree proposed by the Minister of National Defense and the competent minister. The term "armed forces" mean: the Army, the Internal Security Forces, General Security, and in general, the other workers in the public administrations, the public institutions and the municipalities, carrying weapons because of their profession.

³² Mohammed AL AYOUBI: **General Theory of Security – Towards a Security Sociology**, previous reference, p. 217.

delineate specific strategic objectives and handle the contradictions in the legislative texts, which set the army's affiliation to political leadership, thus enabling the army to be entirely subject to the authority of the Council of Ministers, according to the spirituality of the Lebanese Constitution and treaties. In case there is no current division between the security role of the army on the internal level, the division was and is still about the role of the Directorate of Intelligence Services.

Second Requirement: Affiliation and Duties of the Directorate of Intelligence Services:

Intelligence Services, in most countries, preserve the State security, through providing information from different sources put at the disposal of the political leadership to which it is directly affiliated. For example, the CIA (Central Intelligence Agency) is affiliated to the Head of the State; its director is member of the US National Defense Council.

In view of the importance of intelligence services and their role in maintaining the State's security and stability, they are, in fact, part of the security services. However, they are not affiliated to the Ministry of Interior, like the other security services which should have a working relationship and cooperation to achieve one main goal, i.e. maintaining the State's security: The CIA, for example, looks after the US foreign security and the protection of the US national interests everywhere. It is affiliated to the National Security Defense in the President's Office, whereas the FBI (Federal Bureau Investigations) focuses its activity on the internal level. These two institutions share a tight cooperation, exchange communication and benefit from joint training³³.

In Lebanon, the Directorate of Intelligence Services is affiliated to the Commander-In-Chief of the Army, providing the Chief of General Staff with all the available information, pursuant to Article 4 of Decree No 3771, dated September 22, 1981: organizing the army, its staff, its working principles, and the prerogatives of the leaders and heads. The last article mandates the Directorate to survey the risks which threaten the army's security, while proposing solutions to prevent them and organize the management of relevant information to this end³⁴.

³³ Record of research and scientific periodicals, **Security and Social Institutions – The Joint Responsibility**, previous reference, p. 719.

³⁴ Article 4 of Decree No 3771, dated January 22, 1981: "The Directorate of Intelligence Services is affiliated to the Commander-In-Chief of the Army, providing the latter with all available information, pursuant to Article 28 of the National Defense Law. It has the following duties: surveying the risks which threaten the security of the

This organizational text linked the Directorate of Intelligence Services to the Chief of the Army and the Chief of General Staff only, and tried to restrict the duty of the Directorate of Intelligence Services to military security, at a time when Lebanon had no efficient alternative to face the terrorist and fundamentalist threats and the sabotage operations which may be undertaken by the Israeli intelligence networks.

This Directorate, which started with a small number of officers and soldiers, around 30 officers and 200 noncommissioned officers, extended its informative and security duties, since the start of the era of President SHEHAB in 1958, particularly after the attempt of *coup d'Etat* fomented by the Social Syrian Nationalist Party (SSNP) in the night of December 31, 1961. The Directorate managed to develop its work under the umbrella of the Army which provides it with human resources and high professional competences. It also succeeded in building a rich history and an informative and security heritage in fighting security and Israeli networks and fighting sabotage and terrorist operations on the internal and external levels.

The Directorate founded large informative networks on the internal level to support its informative performance. It controlled and guided other security services and intervened under the eras of Fouad SHEHAB and Charles HELOU in the political life in a way that aroused the discontent of many Muslim and Christian groups, which have seen that the plan of this Directorate will definitely lead to threatening the interests of the confessional and feudal system. The efforts of all those damaged by its policy converged and focused on attacking some mistakes which were committed while the Directorate was exercising its duties and managed to deal the Directorate a lethal blow after the election of President FRANGIEH. The military intelligence officers who were in charge of the situation for a whole decade were tried and excluded. However, there was no minimum level of sustainability in this service or a ready alternative to the role of the Directorate.

Army, while proposing solutions and organizing the management of relevant information to this end. This included in particular: Collecting strategic information about the plans and functioning of military operations; Strategic survey of the enemy, its objectives and its fighting doctrine, its organization, its military potential; Setting up measures aiming at fighting spying and sabotage against the security of the army; Interrogating the hostages of war and undertaking necessary investigations according to the laws in force; Examining the security and moral status of militaries and the security of military facilities, documents, post, and signs; Guaranteeing the link with the accredited foreign military attachés in Lebanon; Forming and training members of the Directorate of Intelligence Services in their field of expertise.

The Directorate of Intelligence Services has contributed to security and stability for around 12 years. It has also proven that it was the only body among the services in place which can collect, analyze and use the information to maintain security and stability and fight the networks and security violations on the internal and external levels³⁵. For this reason, its elimination in 1970 at the beginning of the era of President FRANGIEH was one of the reasons which provoked or contributed to the incidents of the seventies. The same mistake was committed again at the beginning of the era of President LAHOUD, when the latter marginalized the role of the Directorate of Intelligence Services, even though in favor of another service, the General Security Directorate, especially that the overall changes used to take back this Directorate to its beginning and paralyze the principle of continuity the security services should have.

Despite all these quasi-exhaustive changes in the work of the Directorate and despite the attempt to restrict its work to military security, the Directorate of Intelligence Services is still capable of possessing special security capacities, regarding the capacities and the competences which can be transferred from the Lebanese Army to the Directorate, in addition to the size of the information it can obtain through the deployment of the Army on the whole Lebanese territory and the operations of information executed by military units, benefiting from its long and practical experience in the secret service work³⁶, which will enable it to build a clear security vision and set up an accurate evaluation of the different security threats and propose strategic objectives to face the threats, which is in harmony with the political and security choices defined by the security policy set up by the Council of Ministers.

For this reason, some political parties ask for its work to be limited to military security, which entails a main contradiction while asking the Army to perform the mission of security stability investigation, enabling it to collect information to be more informed and ready to face internal risks and threats.

Therefore, restricting the mission of the Directorate to military security and getting information about Israel harm the whole State, not only the army, because such a decision will deprive the State from the capacities, the experiences and the cumulated expertise the

³⁵ Shawki KHALIFE: **Lebanon and Security, Comparative Study – Project of Organizing Objectives – Executive Methodology**, previous reference, 1994, p. 15.

³⁶ Nizar ABDEL KADER: **A Nation Without a Fence, a National Defensive Strategy**, previous reference, p. 354.

Directorate has built up for more than half a century of intelligence work, particularly in fighting terrorist groups and organized crimes.

If what is requested to maintain rights and freedoms, to keep the Directorate away from dealing with political activities and issues, associations, parties, trade-unions and universities, we are not calling to prevent this Directorate from dealing with the enemy's networks on the internal level and not dealing with the work of organized gangs, fundamentalist movements, terrorist activities and similar actions, especially that the Army will be finally in charge of handling these activities.

Therefore, it is necessary to reconsider the duties of this Directorate and the legal texts which legalize and expand its work in a way enabling cooperation and a *rapprochement* with the work of the other security services, to fill all the gaps terrorist and criminal activities may benefit from. The legislation will deal with this affiliation to the Command of the Army, on the one hand, and to the political leadership, the Higher Defense Council, or the National Security Council for example, on the other hand.

Section 2: The Services Affiliated to the Ministry of Interior

The Internal Security Forces are currently considered among the most important services in the State, like in old times, when the chief of the police used to be among the main personalities within the State appointed by the Sultan or the Qalifa. The word “police” has a Greek origin, is derived from a Latin word “Politia” and means in charge of the civilized society. When the Romans came, they used it in the meaning of the status and the policy of the State, adopting the word “policy”. For the English people, the word “police” means the system which protects the rights, the morals, the security, and the well-being of the people in general³⁷, as the police system was known in the ancient Chinese and Indian civilizations.

In Lebanon, both the Directorates of Internal Security Forces and General Security are the security services in charge of security within these concepts and affiliated to the Ministry of Interior, according to the legislative text. We will also tackle the texts organizing the work of every Directorate and how to implement in an independent requirement.

First Requirement: The ISF and Law No 17:

The institution of the Internal Security Forces is the oldest among the Lebanese security institutions and was created before the birth of the Republic of Lebanon, since it was founded in 1861, during the era of Al Mutassarifiya and evolved with the French mandate. It was then organized after independence by virtue of several decrees, lately Law No 17, dated September 6, 1990, which attempted to modernize the institution and redistribute its sectors according to functions and specialties³⁸.

According to Article 2 of the present law, the ISF Directorate is subject to the authority of the Minister of Interior, as it is the case in most countries³⁹. Article 1 of the present law sets the main role of ISF to control the criminal climate and get to know the causes and the motivations behind the crime for prevention. It plays a preventive role in the field of crime

³⁷ Record of Research, **Security and Society Institutions – Joint Responsibility**, previous reference, p. 708.

³⁸ Mohammed AL AYOUBI, **General Theory of Security – Towards a Security Sociology**, previous reference, p. 218.

³⁹ Article 2 of Law No 17, dated September 6, 1990, organizing the ISF stipulates the following: “The ISF are subject to the authority of the Minister of Interior and are subject to the provisions of military laws and regulations, unless for exceptions set by virtue of other laws and regulations”

before it occurs and a curative role through repressing and fighting crimes and dealing with their repercussions⁴⁰.

Some consider that the ISF suffer from numerous leadership and organizational weaknesses, in addition to lacking civil techniques and equipment which constitute the main basis for their work in fighting crimes in a preemptive or curative way. Among the main regulatory weak points which constitute a subject of criticism and a political conflict, the Information Branch in the ISF, in addition to the Central Security Council.

First: The Information Branch in the ISF

This Branch was recently created and its role started to emerge following the assassination of Prime Minister Rafic HARIRI. It comprises today 60 officers and 1100 noncommissioned security officers according to the statement of the ISF Director on April 4, 2007. Doubts then emerged about the legality of its existence and the Information Branch was accused of serving one political party.

In fact, Law No 17 did not stipulate the existence of such a branch, as it was called. However, Decree No 1157, dated May 2, 1991, which defined the organigram of ISF and the staff sections in Article 8, enumerated these sections as following: Section of Staff – Section of Service and Information – Section of Administrative Affairs – Section of Planning and Organization – Section of Investigation and Inspection – Section of Public Relationships – Section of Training – Section of International Communication – Information Branch and Section of Post and Archives.

In paragraph b of Article 8 (above-mentioned), the branches of every section were enumerated. The Section of Service and Operations was composed of four branches: Branch of Service and Operations (Operations room), Information Branch, Road Traffic Branch, Prisons Branch, and Postal Branch. The duties of this branch were indirectly delineated, in

⁴⁰ Text of Article 1: The ISF are armed public forces, with prerogatives all over the Lebanese territory and the regional waters and air. As for their prerogatives, they are set out as following: 1- Administrative Police: a- Maintaining discipline and promoting security, b- Ensuring public order, c- Protecting the persons and the properties, d- Protecting the freedoms within the law, e- Seeing to implement relevant laws and regulations. 2- Judicial Police: a- Performing the duties of the Judicial Police, b- Executing the judicial assignments and letters of request, c- Executing the judicial decisions and writs, 3- Other fields: a- Supporting public authorities in performing their duties; b- Guarding decided by the concerned authorities for public institutions and administrations; c- Guarding and administering prisons when needed, d-Guarding the diplomatic missions in Lebanon.”

Article 13 of Decree 1157, dated May 2, 1991, amended by virtue of **Decree No 3904, dated August 6, 1993**, the duties of the Branch of Service and Operations concerning the quality, survey, collection and exploitation of information⁴¹.

After reading this text and other relevant legal texts, the Information Branch was not stated among the six main command services in ISF, among which the judicial police or the embassies security. However, it was mentioned in an application decree as one of the main branches of the ISF Staff Sections.

The text, among its flaws, entrusted this branch with coordinating with the other security services which refused to coordinate for the exchange of information, since these are directorates headed by a grade 1 Director General, asked to coordinate with one of the branches of another directorate's section, under the authority of a grade 3 employee.

Despite the weakness of the legal document and the lack of coordination with other security services, this branch accomplished security achievements to the extent of taking part in unveiling Israeli spying networks and thwarting attempts of confessional tensions, making use of all the information produced by the ISF spread on the whole Lebanese territory and affecting the regular life of people, thus enabling to obtain detailed information, if followed and analyzed in a good way, is invested in a way that serves preventive security, and facing threats before they occur.

It can also play the role of military security affiliated to the Directorate of Intelligence Services, contributing to find an internal control over the work of ISF, boosting its productivity and its moral practices, reducing its negative practices and the cases of corruption and neglect, and upholding the process of reforming ISF and the security sector in Lebanon.

⁴¹ Paragraph b of Article 13 of Decree 1157: In the field of information: determining the quality of information the Directorate General deems necessary to collect and to provide to be exploited; promptly disseminating the information from which the segments should benefit; the mission of surveying information pertaining to security and military discipline of ISF officers and controlling their work and their attitudes inside and outside the service and the information concerning the security and safety of barracks, buildings and different types of machines and equipment, collecting, exploiting them and investigating them and pursuing criminals and coauthors, according to the regulations in force; coordinating, when needed, with the other competent security services to obtain and exchange information; providing the branch with the necessary technical means in the fields of communication and information stocking. This mission is set according to instructions given by the ISF Director General.

With the Directorate of Intelligence Services in the Lebanese Army, it may constitute a perfect security couple, if the duties of every body are delineated in clear legal texts: main duties and other secondary duties, composing a network of interrelated information on the basis of cooperation, not on the basis of competition and deceit, thus enabling the use and exploitation of huge capacities provided by the officers of the Army and those of Internal Security in order to fight all types of crimes and threats, particularly in preventive security. The existence of this section does not go beyond the rules adopted in the security services in the advanced countries, which highlights the need to reorganize the mission of this Directorate and issue the necessary legislations, including the amendment of Law No 17.

Second: The Central Security Council

Law No 17, dated September 6, 1990, stipulated the creation of a permanent internal security council⁴² and set the structure and duties of the Central Security Council which was entrusted

⁴² Article 23: In addition to the administrations of which the Ministry of Interior is composed, a permanent internal security council is created within this Ministry, comprising: 1- a central council composed of: the Minister of Interior, as a president – the Public Prosecutor at the Court of Cassation – the Mohafez of Beirut – the Commander-in-Chief of the Army or whoever he mandates in urgent security conditions preventing him for attending in person – the Director General of ISF – the Director General of General Security – as members; ISF officer – lieutenant-colonel and above, designated by a decree upon the proposal of the Minister of Interior after taking the opinion of the ISF Director General as a Secretary. 2- A sub-council in every Mohafazat, composed of the Mohafez, as president, the Appeal Public Prosecutor – the Chief of the military region – the Chief of the regional police company or chiefs of the regional police companies in the Mohafazat – the general security officer in charge of the Mohafazat, as members – the Secretary General of the Mohafazat, as Secretary.

Article 24: Is affiliated to the Central Council a permanent secretariat, headed by the Secretary of the Council, assisted with several employees of the Ministry of Interior.

Article 25: 1- The Central Council is in charge of: a- Examining and discussing security issues. b- Exchanging information between the services represented at the Council. c- Coordinating work between these services. d- Adopting appropriate decisions and recommendations when necessary within the scope of prerogatives and responsibilities entrusted with any of these services by virtue of laws and regulations in force. 2- Sub-councils are in charge of specific duties of the Central Council on the level of Mohafazat.

Article 26: The Central Council and sub-councils convene upon the invitation of their President at least once per month. The head of every council may call whoever he deems appropriate to attend the meetings of the Council.

Article 27: The duties of the Secretary of the Council are set as following: a- Receiving, analyzing, classifying, and following information from services represented in the Council. b- Raising the results of the assessment of this information to the President of the Council and concerned entities set by the latter, including those

with examining and discussing the security affairs and coordinating and exchanging information among services. However, this Council remained inactive, as it was the case for the Higher Council of Defense, its work limited to occasional and exceptional issues⁴³. It used to convene to face and deal with repressive or curative security issues and did not perform its preventive security duty which requires continuity, ongoing control, analysis and exploitation of information, first. These capacities were not available for this Council, neither for the timing of its meetings, nor for its administrative structure and its relationship with the Minister of Interior, which should be at the top of the executive authority.

Even for curative security, political tensions did not allow this Council to perform its duties. Despite the security crises Lebanon was faced with, the Council could not convene to execute what the law has entrusted it with, for the exchange of information and coordination among services. The proof is the crisis which emerged following Decision No 2403 of the Minister of Interior (2006) and the attempts to hold security meetings to deal with the issue of electronic linking between security services, in application of a previous decision No 183/204⁴⁴ adopted by the Minister of Interior, dated December 5, 2006, which created an IT office in charge of the automation, organization, sorting, and stocking of information sent to the Council from different civil administrations and services, particularly those represented in it, for the purposes of analysis and comparison. The Council was unable to execute the decisions of the Minister of Interior because of the affiliation of the heads of services to religious references or political authorities equal to or going beyond the Minister of Interior. Their divergent positions reflected then negatively on the meetings of the Council⁴⁵.

Third: The Security Service of Embassies and the Judicial Police

represented in the Council. c- Preparing the meetings of the Council, organizing the minutes of meetings and following up the execution of taken decisions and recommendations.

Article 28: When needed the details for the implementation of the provisions of this section are set by a decision of the Minister of Interior.

⁴³ Shawki KHALIFE: **Lebanon and Security – A Comparative Study**, previous reference, p. 67.

⁴⁴ Article 1: A permanent secretary is created for the Central Internal Security Council. Article 2: The office mentioned in Article 1 is affiliated to the permanent secretary of the Central Internal Security Council and is composed of two engineering offices in IT administration, in addition to experienced people in the field, from the ISF and the General Security.

⁴⁵ Nicolas NASSIF: **The Serail Meeting Today: “The War” of the Security Services**, article published in Al Akhbar newspaper, Issue Friday September 29, 2006.

The security service of embassies and public administrations and institutions and the judicial police are among the six main services out of which the ISF are composed, pursuant to Article 4 of the Law organizing ISF⁴⁶ and among the ten command services (Article 5⁴⁷). The prerogatives of the embassies security service comprise the whole Lebanese territory and cover all the segments in charge of guarding diplomatic missions in Lebanon and affiliated institutions, as well as public administrations and institutions. According to paragraph 8 of Article 6 of the mentioned law, they are entrusted with collecting, surveying, and sorting security information, in addition to special duties which are set upon the instructions of the Director General after assessing the opinion of the head of the service.

The heads of the embassies security services and the judicial police are subject to the direct authority of the ISF Director General and are held responsible before him for the execution of the duties which are mandated to them. However, pursuant to Article 3 of the decree setting the organigram of the ISF, the chief of the judicial police has a joint responsibility before the ISF Director General and the **Cassation General Prosecutor** for the execution of judicial duties entrusted with the affiliated segments, without affecting its submission to the authority of the Director.

The texts governing the work of embassies security and the judicial police do not suffer from what the texts organizing the work of the Information Branch suffer from. However, despite the legal text about the security role of both services and despite the fact that they are among the six main services in the ISF - despite all that -, they were not granted the care and attention granted to the Information Branch, which is, originally, a branch of a certain section, according to legal texts. It goes without saying that the emergence of this branch at the expense of these two services was because of their submission to the quasi-fixed confessional quota, since the Directorate is attributed to the Sunnite community, the Army and the Directorate of Intelligence Services to the Maronite community, with the Shiite community “lost” between the Directorates of Public Security and State Security. This is the case of most Lebanese services and administrations.

⁴⁶ Article 4 of Law No 17: “The ISF comprise the following forces: 1- Regional gendarmerie. 2- Mobile gendarmerie. 3- Beirut Police. 4- Judicial Police. 5- ISF Institute. 6- Security service of embassies and public institutions and administrations.”.

⁴⁷ **Article 5:** The Command Services in ISF are composed of: 1- Director General of ISF, including the Director General, the Staff, and the Central Administration; 2- Inspectorate General of ISF; 3- Command of Regional Gendarmerie; 4- Command of Mobile Gendarmerie; 5- Command of Beirut Police; 6- Command of Judicial Police; 7- Command of the Service of Security of embassies and public administrations and institutions; 8- Command of ISF Institute; 9- Presidency of Social Services; 10- Council of Command.

Adding to the crisis of religious and confessional quotas in ISF, that of the “overall political tutorship affecting all the levels of the organizational structure of these forces, from the police station to the highest commands⁴⁸.”

Second Requirement: Directorate General of General Security

The Directorate of General Security is subject to Decree Law No 139, dated June 12, 1959. This decree is still the legislative framework of this Directorate, with some slight amendments which did not change, neither the nature of its duty nor its relationship and affiliation with the political authority, except for the reorganization attempt by virtue of Decree Law No 104, dated September 16, 1983. However, this law was abolished pursuant to Article 1 of Decree Law No 27, dated March 23, 1985, with the other regulatory texts issued in application. Decree Law No 59/139 was restored.

The Directorate, between independence and till the incidents of 1958, managed to play the main role in the field of political security and fighting spying, holding the reins of the intelligence services game and the political developments in Lebanon and in the neighboring countries.

After its legal organization in 1959, this Directorate started to perform major works and activities aiming at achieving preventive security and anticipating crimes, as stipulated in Article 1 of Decree Law No 139, dated June 12, 1959. (Organizing the Directorate General of General Security) stipulates the following: The mission of General Security is to collect information for the government, particularly the political, economic, and social information. General Security contributes to judicial investigation within the limits of the violations committed against the internal and external State's security. The role also consists of contributing, with security forces, to controlling air, sea and land borders, controlling foreigners on the Lebanese territory, and delivering passports.

It is true that Article 2 of the Decree organizing the Directorate General of General Security, amended by virtue of Law No 48, dated September 3, 1965, stipulated that the Directorate General of General Security is subject to the authority of the Minister of Interior and directly affiliated to it. However, the said directorate remained, at the pre-Taef stage, a service affiliated to the Presidency of the Republic. Despite the constitutional amendments of Taef

⁴⁸ Nizar ABDEL KADER: **A Nation Without a Fence, the National Defensive Strategy**, previous reference, p. 66.

which transferred the executive authority from the President of the Republic to the Council of Ministers, the affiliation of the Directorate to the President of the Republic remained a severe political source of tension, amid the political and confessional tensions prevailing around the security services.

With the start of the era of President LAHOUD, the Directorate General of General Security was restructured; the number of staff increased; the cases of indiscipline which were prevailing in it controlled, by mandating some army officers who have already worked for long years in the Directorate of Intelligence Services, thus transforming the Directorate of General Security into “a coherent, distinguished and competent institution performing its duties with a high level of competence, particularly to control border points, the movement of passengers, and the residency of foreigners. The number of the Directorate’s staff increased, acquiring unprecedented human capacities and competences, the number of staff amounting to 4000 noncommissioned officers and 200 officers⁴⁹”.

Despite these institutional achievements, the Directorate was still affiliated to the President of the Republic, contrary to the legal text which linked it to the Minister of Interior. During the period starting with the era of President LAHOUD, politics did to General Security what it did to the Directorate of Intelligence in 1970. The Directorate was taken back to what it used to be before its last renaissance, with the ongoing political and confessional tensions regarding the dependency of its command.

Therefore, in case of reconsideration of the laws governing the work of security services, it is proposed to deal with its clearcut affiliation, staying far from political and confessional tensions. As for the duties, it is proposed to mandate this Directorate to control the activity of political parties and associations, especially secret ones, in addition to being in charge of foreigners’ affairs – entrance, residence, work, departure, immigration, passports and all types of publications, as main duties, in addition to other secondary duties which are cross-cutting with other services.

Section 3: Directorate General of State Security

⁴⁹ Nizar ABDEL KADER: **A Nation Without a Fence, The National Defensive Strategy**, previous reference, p. 380.

This Directorate was the last security institutions created in Lebanon in 1985. Some see in it the continuum of the security circle, with General Security, Internal Security and the Army Intelligence Services, as the partisans of its creation deem it, estimating that no security institution can by itself cover all security fields. It may inflate and become exposed to fall into an error of estimation, thus turning into a threat against security instead of maintaining security, as the previous Director General of the State Security, Staff Major General Nabil FARHAT⁵⁰ said.

Some others see that this Directorate was created as a necessity for confessional participation in the command of security services and that this new institution was meant for the Shiite community within a policy aiming at taking into consideration the confessional balance in the distribution of security positions⁵¹.

Regardless the objective of its creation, the texts governing its legal status is paragraph 5 of article 7 of the National Defense Law, issued in Decree Law No 102, dated September 16, 1983: "Is created at the Higher Defense Council a Directorate General called "Directorate General of State Security" which is subject to the authority of the Council, its President and its Vice-President, etc.". The duties of the State's security cover the following topics according to the last paragraph: "Collecting information regarding the internal State's security through special networks covering the whole Lebanese territory and collecting, verifying, classifying, and archiving external information from services in place and referring it to competent parties, the official parties bound to submit the necessary information regarding everything that affects the internal and external State security to this Directorate General".

Out of reading this text, it seems that it lies within the hierarchy of the Higher Defensive Council, "subject to its authority and affiliated to the President and the Vice-President of the Council." Its duties are similar to those of Internal Security, General Security, and the Directorates of Intelligence Service. According to the text too, the Directorate is entrusted with preventive security, judicial and military responsibilities. It is true that the text compelled the official parties to submit the necessary information, but did not define the

⁵⁰ Mohammed AL AYOUBI: **Public Theory of Security – Towards a Security Sociology**, previous reference, p. 223.

⁵¹ Nizar ABDEL KADER: **A Nation Without a Fence, the National Defensive Strategy**, previous reference, p. 69 and 343.

parties and there was no mechanism to survey the external information coming from services in place. The result was then negative and no service submitted any information to it, whether it asked or not for it.

In the light of such, some concluded that this Directorate was created with the intent of not giving it any security role and is still in place as a must to give a security position to the Shiite community⁵². Because the objective behind its creation was to complete the scenario of confessional distribution for security positions, it was sometimes politically affiliated to the President of the Republic, other times to the Speaker of the Parliament, contrary to what was stipulated in the legal texts. Moreover, it was not given the minimum level of human and financial resources and opportunities to assume its responsibilities⁵³. All its duties remained also ambiguous, until the issuance of organizational decrees which haven't been promulgated to date, thus making many people see it to fail and calling for its elimination.

What clearly shows that there is gap in some legislations, in addition to the non-application of some of the existent legislations, except for the contradiction with the other texts we talked about in Chapter 1 of this study, this contradiction, gap and confessional distribution of the services command led to the affiliation of security institutions to different authorities, without the existence of a set reference and one security administration for coordination and distribution of duties.

⁵² Nizar ABDEL KADER: **A Nation Without a Fence, the National Defensive Strategy**, previous reference, p. 69.

⁵³ Edouard MANSOUR: ex-Director General of State Security in an interview with Brigadier General Nizar ABDEL KADER, 2005, previous reference, p. 383.

Conclusion

By reviewing the constitutional texts and the Lebanese laws concerning the security policy, its strategic objectives and the laws defining the affiliation and duties of security services, we have noticed that these services were created on different stages within a period extending for around half a century. Its creation was sometimes under the weight of exceptional circumstances and due to a confessional and political conflict, more than to deal with security problems. The legislations used always to be set within political backgrounds, some aiming at finding confessional and religious positions within security institutions. These texts were then contradictory, in terms of affiliation to political leadership and in terms of entrusted duties, due to the random distribution of prerogatives which led to intertwined prerogatives which used to increase or decrease, according to what is imposed by the security political game, some of these services being downsized, other expanded.

Human and financial resources were not distributed on clear bases or according to specific criteria. Some were given more than what they needed, others less, in addition to the loss of the security benchmark. Despite the attempts to organize and distribute the duties between the different institutions in the National Defense Law, some of these reforms were not practically executed.

By reviewing the legal texts, the Lebanese security system suffers from the lack of a clear security vision on the political level and from a flaw in the coordination and distribution of duties on a strategic level, due to the lack of a centralized security reference which collect, assess and analyze information. This reference is the link between politics and security which transform information into propositions enlightening the path of politics and changes the political decision into security missions, distributed over the services. Added to that anchoring the confessional aspect of the commands of these services, which is a matter of ongoing conflict and gives these services a confessional color, instead of an overall national color, which requires the reconsideration of legislations governing the work of security services on the levels of affiliation and duties.

In this current period during which the national coalition government was constituted under the sponsorship of a consensual President of the Republic managing the process of dialogue, we hope that the government will succeed in drafting a clear security policy on the basis of which specific strategic objectives are set, in the light of which the security sector is reorganized, reformed and enacted, to entrust security services with achieving these

objectives accurately. To this end, we propose to reconsider the legislations, laws, and decisions governing the work of security services and the issuing of new laws, according to the following scenario:

First: Creating a national security council affiliated to the Council of Ministers or to the Higher Defense Council, which will be like a link and a line of separation between the security policy and its means of execution, the duties of which are set as following:

- a- Undertaking strategic studies for all the present and future risks and threats on the internal and external levels and setting up prior plans to face them.
- b- Turning the political objectives set up by the Council of Ministers into military objectives distributed on security services according to their specialty.
- c- Receiving, analyzing, assessing and exploiting information from all security services on the political level.
- d- Coordinating between the different services and determining the quantity and quality of information which can be exchanged.

Second: Mandating a specialized and experienced commission to redistribute the duties of security services on the basis of one main duty for each and a secondary duty cross-cutting with others, in a way that every objective among the objectives to be achieved are of main interest for the services and of a secondary interest for one or two services sharing secondary duties to this objective, provided that the responsibility remains to be assumed by the owner of the main mission in case of failure.

Third: Reconsidering the link between these services and setting up clear and unambiguous affiliation rules for every service on the institutional level and in a balanced way for the affiliation of leadership and judicial authorities to the Higher Defense Council or the proposed National Security Council and restricting their affiliation to the political authorities, through this Council or the Minister to whom it is legally affiliated.

Fourth: Removing the confessional and religious character from these services and not restricting any security leadership to a specific religious community, and for the needs of the confessional balance, it can be adopted by rotation among religious communities.

Fifth: Avoiding overall security appointments interrupting continuity in the work of these institutions and keeping politics away from security which should be on an overall national basis.

Sixth: Reviewing practical texts, internal instructions, and training programs of security services to respect the standards of the international humanitarian law, particularly in the field of provisional detention and the right to a quick trial in specialized, independent and unbiased courts, in addition to ensuring the rights of defense and the public aspect of the trial.

References

First: Arab Books

- 1- AL AYOUBI, Mohammed: **General Theory of Security – Towards a Security Sociology**, first version, Beirut 2000
- 2- AL HINDI, Khalil & AL NASHEF, Antoine: **The Lebanese Constitution Before and After Taef**, the Modern Book Institution, Tripoli – Lebanon, 2000
- 3- BKASSINI, George: **The Secrets of Taef from the era of Amine GEMAYEL till the Fall of the General**, Al Taawiniya publishing house, Beirut, 1993
- 4- SAAD, Antoine: **Position and Role of the President of the Republic – In the Lebanese Political System – Before and After Taef – A comparative study**, Al Halabi Legal Publications, first version, Beirut, 2008
- 5- KHALIFE, Shawki: **Lebanon and the Issue of Security – A Comparative Study – Project of Organizing Objectives – Executive Methodology**, first version, Beirut, 1994
- 6- ABDEL KADER, Nizar: **A Nation Without a Fence – The National Defensive Strategy**, first version, Shams publishing house, Beirut
- 7- KABALAN Kabalan: **The Constitutional Institutions in Lebanon Between the Text and the Practice in the Light of the Taef Agreement**, Legal publications, Sader, Beirut, 2004
- 8- MANSOUR Albert: **The Death of the Republic**, Dar Al Jadid, first version, Beirut, 1994
- 10- MANSOUR Albert: **The Conspiracy Against the Taef**, Dar Al Jadid, first version, 1993.
- 11- NOUAYHED Bayan: **Evolution of the Constitutional and Political Regime in Lebanon**, 1920-1995, Doun publishing house, Beirut: 1996
- 12- MENASSA Bechara: **The Lebanese Constitution, its provisions and its interpretation**, Ghazir publishing house, Lebanon, 1998.
- 13- HART Liddell: **The Strategy and its History Across the World**, translated by Lieutenant Colonel Al Haytham AL AYYOUBI, Al Taliaa publishing house, Beirut 1967

Second: Miscellaneous:

1- Record of scientific papers and research submitted to the following seminar: Seminar of the Society and the Security in its third annual session, **Security and Community Institutions – Joint Responsibility**, held at the headquarters of the King Fahd Security College, Riyadh, September 11 – 24, 2004, first part, publications of the Center of Research and Studies in the King Fahd Security College.

2- Nicolas NASSIF: **The Serail Meeting Today: “The War” of the Security Services**, an article published in Al Akhbar newspaper, Issue Friday September 29, 2006.

3- Jürg STÜSSI – LAUTERBURG A conference published in a book entitled **“The Swiss Experience in Organizing Defense and Security, Are There Lessons for Lebanon?”**, prepared by Issam Fares Center for Lebanese Affairs, regarding the conference held in Beirut on April 2, 2009

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