

Abstract

The political economy of legal changes in the MENA region: evidence from Tunisia and Lebanon

Sari Madi

After the wave of independence of the 1940s and 1950s, Tunisia followed protective development strategy (e.g., import-substitution industrialization), which were accompanied by related labour market and social policies. Nevertheless, these development strategies and complementary labour market and social policies have come under attack since the 1980s. The so-called Washington Consensus (Williamson, 1990) pushed for economic globalization, the removal of protectionist industrialization strategies and social policies. In response, most developing countries have embarked on the path of reform; however, the extent and direction of these reforms have varied from country to country, depending on the role of several factors, including political regime, development strategy, power constellations, and institutional capacity, etc. Lebanon, for example, is characterized historically by a liberal system where an export oriented strategy was highlighted after the independence.

By building on the ‘institutional experimentation’ framework, this paper examines labour legislation and social security reforms in Tunisia and Lebanon that have taken place since the 1990s. While going through economic liberalization, Tunisia reformed its Labour Code in 1994 and 1996. In the case of Lebanon, which was already a liberal and democratic country, the reconfiguration of the labour market took place during the 1990s. The Lebanese labour code was promulgated in 1946 and two attempts was made to reformed it after the Civil War (2000 and 2011). Along with those reforms, ‘Social Pacts’ was adopted. Social pacts – which are well-known governance mechanisms in the industrialized countries – represent specific forms of cooperation that arise between representatives of government and organized interests (Advagic & al., 2005) and they can take different forms. In Tunisia, the transition to democracy in 2011 opened up the space for a new institutional experimentation in which a Social Pact was adopted in 2013 so as to introduce a new model of development, to realize the reform social security in accordance with the principles of universality and to create an unemployment insurance system. In Lebanon, a Social Pact was initiated by the Ministry of Social Affairs in 2010, after a national consulting process. The studies that focus on Social Pacts in developing countries are very limited (Ozkan, 2017; Yang, 2010; Blake, 1994). It would thus be interesting to analyse why and how a social pact emerged in the context of a developing country like Tunisia and to generate hypotheses and test the pre-existing and new hypotheses in this under-studied area.

The social security literature, in particular the welfare regime approach, has originally focused on the industrialized countries (Esping-Anderson, 1990; Huber & Stephens, 2001), while neglecting developing countries due to various reasons such as extreme heterogeneity among developing countries and their early stages of economic development. Such negligence has later been challenged by other scholars who have demonstrated the systemic divergence among developing countries (Rudra, 2007) and who have directed the attention to other dimensions of welfare regimes such as community, non-profit organisations (NGOs), and religious organizations, etc. in the developmental context (Wood & Gough, 2006; Cammett & Maclean, 2014; Castles, 2010;

Kersbergen, 1995). In the meantime, another stream of the literature has also emerged with a focus on the links between welfare regimes and production regimes (Haggard & Kaufman, 2008). According to this perspective, welfare and production regimes are integrated and mutually support each other. The labour market and social policies conform to not create perverse incentives.

Considering that *flexicurity* reforms not only shape social protection systems but also labour market institutions, Haggard and Kaufman's approach that connects welfare state and production regimes is better suited to our research. To illustrate, the welfare state / production regime nexus examines how industrialization strategies and related institutions have shaped patterns of social protection and employment in the two countries. In addition, the project benefits from the analytical framework provided by the welfare regime approach that focuses on the role of the state in shaping labour market and social security institutions and the distributive outcomes associated with these institutions (Esping-Anderson, 1990, 1999; Barrientos, 2009). Given that social insurance and employment protection institutions constituted together the foundations of social protection systems in the developing world, studying the changes impacting the employment protection (such as the inclusion of *flexicurity* in labour legislations) would provide an account for understanding the nature and direction of the reform of the welfare/production regime.

The study relies on three sets of theories to explain institutional change: those accounting for the process of change (Pierson, 1996; Ebbenghaus, 2005; Mahonney & Thelen, 2010), those focusing on the dynamics of change (Evans, 1995; Korpi, 2006), and those examining the role of external factors that bring change to the domestic context such as the transfer of public policies between countries or between international organizations and countries (Dolowitz & Marsh, 1996; Béland, 2007; Peck & Theodore, 2015).

More specifically, my project aims to address the following research questions:

- 1) Do the reforms of the labour market laws in Tunisia and Lebanon ensure both job security for employees and flexibility of employment for employers?
- 2) What is the nature and form of the Social Pact?
- 3) What are the determinants of the institutional change during the economic liberalisation (Labour Code) and after the political liberalisation (Social Contract)?
- 4) Who were the social actors that shaped these reforms and what was their role?

Those questions will be addressed by using a qualitative methodology (through semi-structured interviews with social actors and complementary archival research) to identify the position and to analyse the influence of the key actors and factors (such as political regime, bureaucracy, trade unions, employers' associations, international organizations, etc.) on labour legislation and social security reforms. As a research method, I use *process tracing* to identify the causal mechanisms within each country cases, so that I can later compare and contrast the dynamics and nature of reforms in these two countries.

My research examines the redefinition of the role of the state through legislations. The Tunisian labour code was initially promulgated in 1966 during the socialist experimentation in Tunisia that

contained progressive legislation and social welfare programs. The labour legislation was subject to reform during the 1990s in the context of economic liberalization. Furthermore, the change in the political regime and institutions in 2011 affected the labour market and social policies. The Lebanese Labour Code was promulgated in 1946 and two attempts were made to reform it in 2001 and 2011. Both attempts found their way to the Council of Ministers without being adopted. It is thus interesting to understand the role of the State and the political elites in maintaining the statu quo.

Also, my project focuses on changes occurred during the last decades, which created spaces for institutional experimentations, especially the establishment of the tripartite commission that met regularly to reform the employment regulations. This context – in which social actors operate – was reconfigured after the uprisings that occurred in Tunisia. The Tunisian Social Pact demonstrates a new form (or experimentation) of formulating and regulating labour market and social policies. In Lebanon, the first draft of the project of the Labour Code was negotiated by a tripartite committee, but the second draft was made by the Ministry of Labour. Concerning the second indicator, under the pressure of the donor community of Paris III Conference (2007), a Social Pact was initiated by the Ministry of Social Affairs in 2010. It was adopted after a national consulting process, and aims to reform, among others, the social protection and the employment in the country. Hence, the differences between the pluralist Lebanese system and the corporatist Tunisian system are obvious.

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