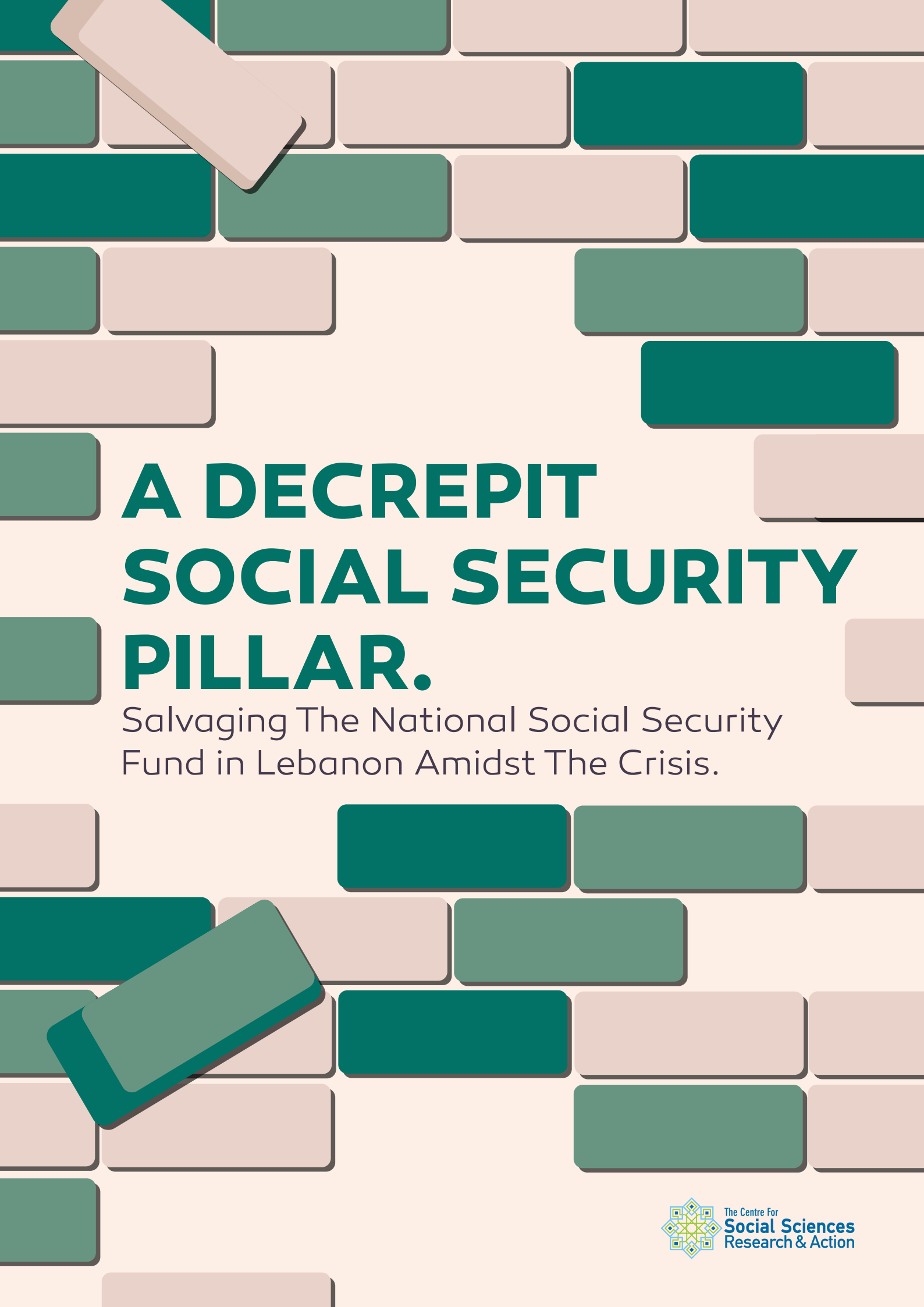




A DECREPIT SOCIAL SECURITY PILLAR.

Salvaging The National Social Security
Fund in Lebanon Amidst The Crisis.

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Fund in Lebanon Amidst The Crisis.

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Introduction

“Lebanon lacks a social protection system based on lifecycle guarantee and anchored in the human right to social security. It lacks unemployment insurance, child benefits, old-age or disability pensions and sickness and parenthood benefits. As it currently stands, the system has a limited impact on poverty reduction, a minimal impact on inequality and is largely skewed towards protecting those on high incomes.” (United Nation 2022, 15)

The above is an excerpt from the report of the special rapporteur on extreme poverty and human rights Olivier de Schutter to the Human Rights Council after his visit to Lebanon in November 2021. The highlighted observations on the social protection system in Lebanon, its limitations, gaps, and challenges, point out the long-term flaw of the system since its formal establishment in the 1960s. The Lebanese social protection system was from its inception, and through its historical development, a fragmented system characterised by, on the one hand, scattered contributory-based schemes and, on the other, by ineffective and time-bound social assistance programmes (Abdo 2019; AbiYaghi and Yammine 2019; Scala 2022). The contributory-based system is composed of state-developed and implemented mandatory schemes of social insurance for formally employed workers (in the private and the public sector) and their families. In the context of a labour market characterised by high rates of informality (ranging between 54 % and 66 % according to available data before the crisis in 2019, ILO and CAS 2018/2019; WB 2014), these national social security schemes leave the majority of the population without any kind of protection.

This report examines the National Social Security Fund (NSSF), a central pillar of the social security system in Lebanon. Founded in 1963 by the late president Fouad Chehab, the NSSF is the social insurance institution covering workers in the private sector. It was founded just after the establishment of the public sector workers social insurance institution, the “Cooperatives of the Civil Servants” at the beginning of 1963.¹

The NSSF grants coverage of medical costs, family allowances, as well as end-of-service indemnities to workers in the private sector. It is based on contributions from the employer, the employee, and government subsidies. Prior to the current economic and financial crisis, the NSSF was one of the most important pillars of social protection in the country.

¹ For a timeline retracing the main stages of the construction of the social protection system in Lebanon see: <https://civilsociety-centre.org/cap/timeline-social-protection-in-lebanon>.

According to a recent study by the International Labor Organization (ILO), the NSSF “[was] the first funder of health expenditure with 20% of Total Health Expenditure (THE) in 2017” (ILO 2020, 12). One of our interlocutors described the fund to us as “by far – despite all these limitations – the largest contributor to poverty reduction in this country.”²

Today, the fund is in jeopardy due to the economic and financial crisis the country has been going through since 2019. It is still reimbursing its beneficiaries at the official rate of 1 USD = 1,507 Lebanese Lira (while the real exchange value has increased more than 20 times and ranges between 1 USD = 35,000 to 39,000 LBP at the time of writing this report), rendering these reimbursements as well as the end of service allowances of little to no value.

In parallel, and beyond the financial crisis, the government has not taken any serious steps to reform the fund that in 2019, prior to the current crisis, was covering around 23 % of the population according to some sources (Dagher and Zoughaib 2022).

In 2021, only one in two Lebanese and one in three non-Lebanese residing in Lebanon were covered by any form of social protection (ILO 2021, 5 and 9).

These important exclusion rates merely reflect the Lebanese fragmented, discriminatory, and exclusionary system that protects separate categories of people. The NSSF that covers formally employed individuals during their working years, constitutes only one – albeit an essential one – pillar on this scattered social protection framework.

This report delves into the NSSF’s history and development since 1963, examining its structural gaps, and instrumentalisation by political figures, and evaluates the fund’s current situation amidst the crisis, discussing various propositions of reforms by different stakeholders.

As the NSSF is exclusionary by nature, we argue that any reform of the NSSF cannot be envisaged through small-scale measures, but has to consider the fund as one part of the social protection system in Lebanon. Only an integrated reform of the overall social protection system towards an inclusive, universal, and rights-based system may enhance its capacity to protect individuals from lifecycle risks and vulnerabilities.

² Interview with a social protection expert in an international NGO, 12.05.2022.

Methodology

This report relies on a review of the existing literature as well as on empirical research.

A series of seven targeted in-depth semi-structured interviews with experts of social protection in Lebanon in general and the NSSF in particular, working in local and international NGOs were conducted between April and August 2022. In addition, three interviews were conducted with civil servants occupying various positions and with varying degrees of responsibility at the NSSF.

Eight targeted in-depth interviews with NSSF beneficiaries were conducted, and segregated according to socio-economic background, gender, and family status.

Ethnographic observations at different NSSF locations in Beirut and two regions, allowed further qualitative data collection.

1. SOCIAL SECURITY IN THE MAKING: A HISTORICAL OVERVIEW OF THE NSSF SINCE ITS ESTABLISHMENT

The creation of the NSSF goes back to the era of the Lebanese President Fouad Chehab, who was appointed in 1958 after months of unrest and armed conflict in the country that were partly “rooted in the sharp socio-geographical and sectarian inequalities that the post-Independence transition to the so-called ‘Merchant Republic’ economic model had ended up producing” (Tufaro 2021, 12). Fouad Chehab was an army general and the primary purpose of his rule was to restore law and order. His rule and the term associated with it – “Chehabism” – usually refer to a developmentalist approach to politics and the state. While Chehab introduced “modern” elements to Lebanese politics, he also maintained a balance with keeping old structures and processes (Hudson 1985). These modernisation efforts aimed notably at undermining the power of the traditional political and economic elite (the so-called *zu’ama’*) that were the traditional social protection providers through sectarian welfare channels (Hottinger 1966; Yehya 2015). His state-led approach to social protection and security was thought to weaken these channels (Scala 2022, 11).

The NSSF was established in line with this “moderate welfare ideology tailored to the Lebanese situation” (Hudson 1985, 161). “Moderate” mainly because the NSSF only covered individuals that are formally employed in the private sector and their family members: the fund was not meant to offer social security or assistance to all Lebanese citizens or residents of Lebanon. The creation of the NSSF was inspired by the French model of the “Caisse nationale de l’assurance maladie” (CNAM). Both follow the Bismarckian model of social protection that links coverage to formal employment. Similar to the CNAM, the NSSF was designed to be an independent institution, administratively and financially, and within the mandate of the Ministry of Labour and the Council of Ministers.

President Chehab proclaimed the decree of “The Law of The Social Security” (“*qanun ad-daman al-ijtima’i*”) in September 1963. Two years later, in May 1965, it was put into practice. As mentioned above, the establishment of the NSSF followed the foundation of the “Cooperatives of Civil Servants” that offers more generous benefits and services of social insurance for civil servants. The creation of both funds in the same year corroborates a Bismarckian and state-led approach to social protection. Both funds not only excluded large segments of the society from the beginning, but also created a hierarchy between private and public sectors regarding the offered benefits and services (Scala 2022).

However, the establishment of social security schemes cannot be merely viewed from the prism of a top-down policy granted by a developmentalist leadership. It also has to be considered in the context of the decade-long workers' movement in the country that had been demanding several labour and social demands "including the enactment of a social security law" (Tufaro 2021, 11). In the years following the establishment of the NSSF, the labour movement continued to mobilise for the full implementation of the NSSF law and its reform (Scala 2022, 11).

As Chehab pursued developmentalist endeavours, the police state was strengthened during his mandate: intelligence agencies contained any social contention as well as labour movements during that time (Traboulsi 2007, 56).

The NSSF continued to function until the outbreak of the Lebanese civil war in 1975. During the civil war, violence and state fragmentation weakened all state institutions including the NSSF.

The war ended with a severe economic and currency crisis in 1990: the country was destroyed and the economy shattered. This led to neoliberal politics of austerity, a wave of privatisation, and the (re-) development of a rentier and service economy under the premiership of late Prime Minister Rafik al-Hariri since 1992 (Baumann 2017). In order to mitigate the losses, the NSSF had endured, it decided to invest in treasury bonds, given the high interest rates on these bonds. In the upcoming decades the NSSF continued to rely heavily on investing in treasury bonds. In effect, this meant that the NSSF relied solely on one source of investment albeit these were deemed risky. It was also indirectly sustaining and financing the debts of the government.

In a similar vein, and since the end of the civil war, successive governments did not pay their dues to the NSSF³, contributing to undermining the fund's financial sustainability. Similarly, in the early 2000s, the government intervened directly and reduced the contributions of the employers from 38,5% to 21,5% further reinforcing the financial difficulties of the fund (Executive Magazine 2012).

In March 2020, the Lebanese state defaulted on its debt leading to unofficial capital controls by the banking system, which in turn led to the freezing of NSSF funds and thus the arrears that the state

³ As it will be further explained, the state is supposed to contribute with a 25% subsidy to the NSSF's health insurance branch.

owed (Merhej and Chehayeb 2022). Indeed, over the last few years, the NSSF is paying its dues to the hospitals at the official USD - Lebanese Lira exchange rate, which led to refusing third-party payments of the NSSF, requiring patients to advance about 90% of the hospital's bill.

The estimated debts of the state to the NSSF amount to 5,000 billion Lebanese Lira, i.e. around 2.8 Billion USD at the official exchange rate (LBC Lebanon News 2021).

Moreover, politicians' interference in the NSSF contributed to instrumentalising it for political agendas and following clientelistic logics. For instance, one of our interviewees states: "the members of the board are frank about it, they tell me who they have to report to, and which political party determines their decisions."⁴

Political intervention in employment matters and official appointments at the NSSF are a symptom of a flawed governance and administration of the fund, that is permeable to political interference, clientelism, and corruption.

2. NSSF DYSFUNCTIONS, A BY-PRODUCT OF AN ARCHAIC STRUCTURE AND POLITICAL INTERFERENCE

The structure and governance of the NSSF are regulated by decree number 13955 ("The law of the Social Protection") that was issued on September 26th, 1963.

The NSSF is defined as an "independent institution of social nature that conforms to the provisions of this law, is a legal entity and holds administrative and financial independence." (Decree No. 13955 1963, 2). The Ministry of Labour and the ministerial council have the right and duty to intervene in the following: the adjustment of the bylaws of the NSSF, the adoption of the yearly budget, as well as the appointment of the general director, the board members, and the members of the technical commission. As defined in the law, the NSSF has a tripartite structure: an administrative board, a secretariat, and a technical commission.

The administrative board is supposed to consist of 26 members, whereby ten represent the committee of employees, ten represent the

⁴ Interview with a social protection expert in an international NGO, 12.05.2022.

committee of employers, and six represent the government. Decisions within the board have to be taken with a majority within each group (and a majority within the whole board in the second ballot in case the first one did not get a majority). The quorum for decision taking is 15 persons. Each representative is appointed for four years. While the ministerial council decides on the number of representatives of the employees and employers' committees, the committees themselves decide on the names of the representatives by elections. After the representatives are elected, the ministerial council ratifies the election. The administrative board holds the deciding authority within the NSSF, meaning the adoption of a yearly budget, the adoption and adjustment of the fund's bylaws, the employees' directory as well as the rank and salary scale for the NSSF. The board also decides on any proposals given by the technical committee.

The secretariat holds the executive power of the NSSF and is headed by the general director who is appointed by the ministerial council upon the recommendation of the Minister of Labour. The general director and its secretariat are responsible for the implementation of any decision the board has taken; he/she also serves as the liaison between the board and the secretariat by attending the meetings of the board. Current general director of the NSSF since 2001 is Dr. Mohamad al-Karaki. The term of the general director is unlimited according to the law.

The technical committee fulfils an internal control role within the NSSF. It consists of three members, one president and two members. It is responsible for auditing the finances of the NSSF yearly, and can propose suggestions to the board. Its propositions and remarks are not binding though, although it may take the board to trial.

The administrative structure of the NSSF consists of 12 functioning administrative units (directorates) in its main office in Beirut: financial, administrative, public relations, technical, financial inspections, administrative inspections, inspection and control, statistics and organization of work methods, preparation and training, sickness and maternity, board affairs, and the cabinet of the director general. Two planned directorates (quality/planning and development) have not become functional units. An additional medical control administrative unit functions like a directorate which makes the total number 13. There are 13 regional offices all over the country, in addition to the main office in Beirut, as well as 17 local offices and 8 correspondence offices. Although this may look like a comprehensive administrative structure, the NSSF's administration faces many dysfunctions leading to inefficient processes.

In reality, the administrative board consists of only 16 effective members

today, and while the legal term of the current board has been terminated since 2007, it has been illegally extended every four years. As such, the board is an interim board with limited authority, yet it takes decisions like a legitimate board. Moreover, it only takes two board members not attending meetings to invalidate the quorum for any strategic decision, rendering the deciding authority of the fund permeable to interference.

Moreover, the technical committee has been vacant since 2021. The last president of the technical committee was Samir Aoun who retired in 2021, following several corruption scandals and summonings by the Fiscal Deputy General. No successor was ever appointed.

This governance structure has been described as an “archaic administrative model”⁵, resistant to reforms and innovation as well as enabling clientelistic practices.

An NSSF employee gives an example: “most processes are still paper-based, there is no or little digitalization to coordinate between the hospitals, doctors, and pharmacies. People still bring their prescription, the invoice and the empty pill boxes to the NSSF office to get their reimbursement.”⁶ The digitalization of the NSSF is a long-standing project by the Office of the Minister of State for Administrative Reform and funded by the European Union (Yassine 2021), the outcomes of which are yet to be seen.

In addition to the above, a main challenge is linked to the shortage of employees at the fund. As many of our interviewees pointed out, the NSSF ought to employ between 2000 and 2500 staff, while it only has 1,100 employees and 100 daily workers (in Arabic: *muyawimin*) according to the most recent study on the subject (Lower 2013, 46-47). Part of the austerity measures adopted since the 1990s, the recruitment of civil servants has been slowed and came to a halt for the NSSF as of 1998 (Lower 2013, 40).

According to daily workers interviewed, all recruitments for the fund have been as daily workers who are hand-picked according to nepotistic logics “I got this opportunity through political connections because at that time, the NSSF was an acceptable career with a kind of good salary even for daily workers. I am officially a daily worker until today but since the report of the technical committee in 2016, all daily workers at the NSSF receive very similar benefits as

⁵ Quote from an interview with a social protection expert in an international NGO, 12.05.2022.

⁶ Interview with a social protection expert in an international NGO, 12.05.2022.

normal employees, i.e., social security, yearly holidays, and benefits”⁷. Similar to other state institutions, recruitment of daily workers becomes a political and clientelist tool for establishment parties.⁸ In spite of these nepotistic recruitment channels, the fund remains understaffed. Since 2020, this situation is further exacerbated due to ongoing strikes of workers within the fund protesting the devaluation of already low salaries, and asking for better working conditions. Strikes, however, also affect the already strained operations at the fund.

3. EXCLUSION, DISCRIMINATION, AND FRAGMENTATION: COVERAGE OF THE NSSF AND ITS BRANCHES

The fragmented and exclusionary nature of the NSSF mirrors the structural characteristics of the overall social protection framework in the country.

By law, the NSSF law consists of four branches: a) sickness and maternity protection, b) work emergencies and sickness protection, c) family and education allowance and d) end-of-service indemnity. Until today, all branches except the work emergencies and sickness branch are actually implemented.

The NSSF is mandatory for all workers in the private sector and in government-owned companies, such as the Electricity of Lebanon (EDL) or the port. It is also mandatory for those employed in the public sector that are not eligible for civil or military service social protection (namely contractual workers), although this was never enforced in practice. Moreover, the law specifically lists groups outside of the private sector such as taxi drivers, university students, teachers in private schools, agricultural workers, construction workers, port and ship workers, and physicians as eligible for the NSSF.

The NSSF also covers the family of the enrolled person (“those living with the enrolled person under one roof”): a) the children until they are 18 years old or until 25 years old, when they are continuing their education; b) the female spouse (only the first one if there are several spouses); c) the parents if they are above 60 years or not

⁷ Interview with an employee at the NSSF, 23.06.2022.

⁸ Clientelist dynamics in the recruitment of daily workers are a common practice in other public companies and institutions, such as at Électricité du Liban (EDL), see Scala 2020.

able to secure their livelihood and d) the male spouse in case he is above 60 years or not able to work because of mental or physical challenges. (Decree No. 13955, 1963, Article 14).

By law, a number of professional categories and groups working in the private and in the public sectors are excluded from access to the NSSF. This exclusion applied to the following groups who are also not covered by any other social protection scheme in Lebanon:

Informal workers: The term refers to those workers with no legal working contract, such as daily workers, seasonal workers, agricultural and construction workers. Some of these professions are actually mentioned in the NSSF law as legitimate and mandatory beneficiaries but in fact do not receive any benefits. Today, informal workers constitute the vast majority of the working population and constitute an estimated number between 54 (ILO and CAS 2018-2019) and 66 % (WB 2014) of residents in Lebanon. Informal work arrangements are currently on the rise. Notably, an estimated percentage of 20% of “informal work” can actually be found within formalised work settings (ILO 2020, 32).

Foreign workers in the private sector: The NSSF law stipulates that employers have to pay contributions for foreign workers but these workers only receive end-of-service indemnities. In case their country of origin grants Lebanese workers the same provisions as the NSSF, they receive all NSSF benefits. (Decree No. 13955, 1963, Article 9). To date, only France, UK, Belgium and Italy have actually signed a bilateral social security agreement with Lebanon, so their nationals receive all the NSSF’s benefits if they are registered in the fund (ILO 2020, 19).

Migrant domestic workers under the kafala system: Article 7 of the Lebanese Labour Law excludes domestic workers from the labour law (Code of Labour 2010, 2). They are therefore also not subject to the NSSF law. Domestic workers in Lebanon are overwhelmingly women migrant workers from South-East Asia and Sub-Saharan Africa. Their stay in Lebanon as well as their working conditions are regulated by the so-called kafala system, a series of laws and decrees that legally binds them to their employee.

Unoccupied and unemployed people: The NSSF does not include unemployment insurance and NSSF registration stops once a person leaves his/her employment, therefore the person does not receive any kind of allowances, services or benefits.

Certain formal workers: This includes those workers that have in fact signed a working contract but have not been registered at the NSSF by their employer, despite the fact that registration is mandatory upon the signature of an employment contract. This practice is difficult to quantify, however is reportedly widespread in several private companies (Scala 2020).

The NSSF clearly disadvantages:

Women: Women can be registered at the NSSF if they are not registered through a male counterpart, but cannot always grant the coverage to their spouses. Women are not entitled to a maternity grant. Moreover, no paternity leave exists which implicitly admits that childcare should weigh on women only, reinforcing patriarchal structures and behaviours in Lebanese society.

Retirees in the private sector: Elderly people who worked in the private sector only receive an end-of-service indemnity upon retirement and no monthly pension. Previously, the coverage of health insurance also stopped at retirement but in 2017 a mandatory health insurance was established for retired workers in the private sector. (Law No. 27/2017, see ILO 2020, 19).

Sickness and maternity protection

The sickness and maternity protection branch of the NSSF consists mainly of health insurance and the coverage of pregnancy related medical care. The health insurance primarily covers hospital and outpatient care (general and specialised practitioner) as well as drugs and laboratory/imaging services. The costs of hospital care are covered at 90% (including laboratory tests but excluding emergency care) while drugs, laboratory and imaging services, as well as outpatient care are covered at 80%.⁹ The rest either has to be paid by the patient him/herself or by one of the several funds or private insurance companies that pay the outstanding amount after NSSF coverage (the so-called “farq ad-daman”). Indirectly, the NSSF health insurance scheme promotes the utilisation of hospitals and, therefore, secondary or tertiary healthcare. In fact, contrary to outpatient care, the NSSF pays to the hospital directly and the patient does not have to pay in advance to

⁹ As previously mentioned, coverage mechanisms and rates of all NSSF branches have been completely upset by the outbreak of the financial crisis in Lebanon, and the related currency devaluation. However, coverage offered through the NSSF is - on the paper - still the same. In practice, hospitals today refuse third-party payments of the NSSF and ask NSSF beneficiaries to cover about 90% of the bill, while NSSF reimburses around 10% of the total cost. This aspect will be further discussed later on in this paper.

get reimbursed later. The delays in reimbursement of medication bills or bills for outpatient care have been a problem within the NSSF for many years and were the reason for many complaints by the beneficiaries. As expressed by one of our interlocutors: “I used to hand in the prescription and the bill for the medication for my husband’s heart condition every month. The cost was around 500,000 LBP, so before the crisis it was around 300 USD. Afterwards I used to call someone I know at the NSSF to accelerate the process of reimbursement. I received 80% of the costs rather quickly – but only because I used my connections. Other than this, you sometimes had to wait six months or longer, sometimes also less, you never know.”¹⁰ The relative ease to get a hospital visit covered (by direct coverage after prior NSSF approval) compared to a general practitioner’s visit (by reimbursement in arrears) encourages an overutilization of more expensive secondary care. Moreover, there is no referral or gatekeeper mechanism in place to prevent this. Another factor leading to overutilization tendencies and potential waste of money is the fact that the NSSF pays a defined fee-per-service, not per condition. This can motivate the service provider (usually a private healthcare provider) to charge more services than necessary to increase the costs of treatments and services reimbursed by the NSSF and basically make more profit (ILO 2020, 21). This entails a consequent and unnecessary overburden on the NSSF (public) finances.

A further criticism regarding the NSSF healthcare scheme is the prevalent recognition of brand drugs as reimbursable drugs by the NSSF. Hardly any generic drug is on the list, a practice that mainly big pharmaceutical companies and their distributors profit from. This practice goes at the expense of the patients and the NSSF itself. According to the NSSF law, the institution also has the right to import medication itself and sell it to their enrolees at the original price. Although the NSSF attempted to do so several times in the first years after the civil war, the government always blocked NSSF’s direct import of medications to protect the monopoly of big pharmaceutical companies and their local distributors (Legal Agenda 2020).

The naming of the branch as “sickness and maternity” is also misleading insofar as many aspects of the branch – although stated in the law – are not yet implemented. Practically, maternity care mainly implies the coverage of pregnancy related medical care including antenatal, postnatal, and delivery care. However, it does not entail any indemnity for the wage loss of women during pregnancy. The same goes for sickness and possible wage loss due to sickness. All three components

¹⁰ Interview with an unemployed wife of a taxi driver, 30.05.2022.

are part of the labour law and therefore are the duty of the employer, not the NSSF. Articles 28 and 29 of the Labour Code regulate maternity leave for seven weeks in which the employer has to pay the full amount of salary and the woman cannot be dismissed. Article 40 regulates the sick leave and the salary according to the length of the leave. Also, a person cannot be dismissed when on sick leave (Article 42). Neither the labour law nor the NSSF law grant any paternity leave, and as mentioned above, childcare is therefore implicitly established by law as a feminine and gendered task.

In 2001, the NSSF established a voluntary healthcare scheme to cover individuals that cannot be enrolled within the NSSF. This voluntary scheme would have covered anyone outside formal employment in the private sector, including unemployed people or informal workers. The voluntary health insurance was actually part of the original 1963 law, but was not implemented until February 2001 through governmental decree 7352. The voluntary insurance was established as a separate fund and there was no reciprocity or subsidisation planned between the new fund and the other funds of the NSSF. Given the fact that it was supposed to be a voluntary healthcare scheme, its financial sustainability was unclear from the get go. As El-Jardali et al. (2014) pointed out the main incentive for the establishment of the voluntary healthcare scheme at this time was the restructuring of the Middle East Airlines company and the dismissal of 1550 employees, all former NSSF enrollees who lost their registration with the termination of their employment. The latter's pressure led the government at the time to enact decree 7352. The voluntary scheme soon faced financial challenges and hospitals started to reject patients enrolled within this fund. Three years later, only those who were formerly enrolled at the mandatory NSSF branches were able to remain in the voluntary branch (approximately constituting around 2% of all registered persons at the NSSF or about 100,000 adherents).

The yearly contribution to the voluntary health insurance is 1,500,000 LBP (1000 USD at the official exchange rate) for employers and 1,000,000 LBP (750 USD at the official exchange rate) (ILO 2020, 7; Lebanon Support and Consultation & Research Institute 2021).

In 2017, the mandatory health insurance was extended to retired persons if they had accumulated 20 years of contributions and were above 64 years old (official retirement age). In these cases, the retired person pays 60,000 LBP per month. The same decree also raised the employers' share of the health insurance from 7 to 8% and the employee's share from 2 to 3%.

Work emergencies and work sickness protection branch

The second branch was designed as an insurance against emergencies/accidents and sickness related to work and the workplace. Until today, this branch has not been put into force. Work accidents and sickness are covered by the first branch (contrary to the law stipulations). While the original design of the NSSF attempted to reflect lifecycle vulnerabilities, the delays and inefficiencies of the fund have hindered an actual implementation of these schemes more than 60 years after the establishment of the fund.

Family and education allowance branch

The structure of the family and education allowance branch further corroborates discriminatory mechanisms inherent to the NSSF (by design and in practice) relating to gender and socioeconomic conditions. This branch grants a monthly amount for each child of a male worker and for the wife of the male worker. Women only receive an allowance for their children when the husband is not registered at the NSSF. This implicitly admits that the man is, and should be, the main breadwinner in society and the one that ensures social protection to the family through its work activity. Thus, this reinforces patriarchal structures and behaviours in society furthering women's dependence on men.

The education allowance is to date not implemented. The family allowance, mainly provided through the male worker, amounts to 11% of the minimum wage for each child. Since the fixing of the minimum wage to 675,000 LBP per month in 2012 (by decree 7/426), this allowance amounts to 74,250 LBP per child per month. The allowance value for the worker's wife amounts to 20% of the minimum wage, i.e., 135,000 LBP per month based on the 2012 minimum wage. With the constant depreciation of the Lebanese Pound since 2019, and given that the minimum wage has not been revised (at the time of writing) and the monthly allowance today amounts to less than 2.25 USD for the spouse and 1.23 USD for each child.¹¹ Prior to the current crisis, access to social security through the NSSF made formal workers a privileged working population eligible to – at least – some benefits such as the family allowances, in a labour market dominated by informal arrangements. However, the current crisis has almost annihilated NSSF benefits impact, contributing to a large downgrading of the socioeconomic conditions of the working class, including previously “privileged” formal workers (Scala 2022).

¹¹ Calculated at the rate of 1 USD = 88,000LBP, at the time of editing this report.

End-of-service indemnity

Patterns of discrimination and hierarchisation inherent to the contributory social security systems in Lebanon can also be seen in the absence of an old-age pension scheme for formal workers of the private sector. While public sector workers have access to a pension scheme through different cooperatives (the cooperative of civil servants, teachers and public sector employees, and the cooperative of military and security forces), private sector employees only access an end-of-service indemnity: a limited lump-sum that is disbursed by the NSSF at the end of a worker's career.

The NSSF law states that the end-of-service indemnity branch was supposed to be a temporary solution until an old-age pension system is implemented. Since 2004, several governments have been discussing the transformation of the end-of-service indemnity into a pension scheme. However, the law has not been adopted although its draft is put forward by different stakeholders from time to time.¹²

The end-of-service indemnity is paid if the worker has been working and was enrolled at the NSSF for a minimum of 20 consecutive years and if he/she is either above 60 years old or "unfit to work by 50%" (Decree No. 13955, 1963, Article 50). As already mentioned, the indemnity is a cash lumpsum "equivalent to the monthly wage for each year the concerned person worked, preceding the date of the right to the indemnity" (Decree No. 13955, 1963, Article 51). To give a practical example, this means that if the last salary of an NSSF enrollee before retirement amounted to one Million LBP and he/she worked 25 consecutive years, the end-of-service indemnity would be 25,000,000 LBP (approximately 16,000 USD at the official exchange rate). A social protection expert in a local NGO highlighted the deficiencies of the end-of-service indemnity in the following way: "The end-of-service indemnity is like a bad piggy bank; you save a bit of money there and when you retire you get it. But it is not enough to bring you through your retirement life. The idea was to make it temporary for the first years until the NSSF gathered some money and then to change it into a normal pension scheme. But in Lebanon everything temporarily remains forever, so until today, we still have the onetime payment."¹³ Lebanon is therefore the only country in

¹² In 2004, the World Bank was asked to study the draft bill and outline its recommendations. The latter were faced by strong political divergence and opposition and hence the law was put aside until 2008, when the bill was brought back to the parliament's table and handed back to different parliamentary committees. In 2010, the Minister of Labour initiated a renewed discussion about the law. Until today, the law has not been adopted.

¹³ Interview with a social protection expert in a local NGO, 23.05.2022.

the region that has no pension annuity for private sector workers (ILO 2020, 3).

The end-of-service indemnity has been criticised for many years, especially by NSSF enrolees, as it only constitutes a one-time compensation and does not guarantee long-term and sustainable security during old age. Moreover, since 2019, the end-of-service indemnity is being paid out in Lebanese Pounds and has currently lost about 90% of its previous value.

“My father retired a couple of months ago and he got his end-of-service indemnity. The total amount after working for 44 years and paying NSSF contributions for 32 years was 45,000,000 LBP, which today equals 1,350 USD, approximately his [pre-crisis] monthly salary. According to the old rate of 1,500 LBP, he would have had about 30,000 USD. Currently, I am supporting my parents so that they can make ends meet.”¹⁴

However, it should be noticed that the end-of-service indemnity branch is the only branch of the NSSF that actually realised profits since its beginning. On the one hand, this has allowed the NSSF to invest part of its money in treasury bonds and bank accounts. On the other hand, this has rendered it possible to cover the deficits and debts of the first and third branch – although subsidisation from one branch to the other is not allowed by the NSSF law (Merhej and Chehayeb 2022).

Fragmentation, incompleteness, discrimination, and exclusion of the NSSF coverage

Within the three functioning branches of the NSSF, crucial life-cycle protection mechanisms are missing. Among them, the most important are the lack of an education allowance, of a maternity grant, of unemployment allowance, as well as of a pension scheme. In addition to that, the NSSF only has a very limited redistributive component. Those with a higher salary and their employers pay higher contributions (in amount, not in percentage), although all enrolees receive the same services. Still, there is neither a legal redistribution and subsidisation from one sub-branch to another, nor any notion of redistribution of funds to cover vulnerable, and underprivileged people in different life cycles. Therefore, among the registered people, children, women, and

¹⁴ Interview with an employee in the sales department of a company, 12.05.2022.

old people are disadvantaged in the NSSF coverage – although they should be the most protected in a right-based and universal social protection scheme. Currently, underprivileged and pauperized people registered at the NSSF are the more disadvantaged since they can neither afford private insurance nor the high difference between the current coverage rate of the NSSF (at the old currency rate) and the actual medical costs (at the actual currency rate). The end-of-service indemnity clearly disadvantages those with a lower salary since they receive a lower indemnity and are therefore at risk of old-age poverty – even more so today, with the decreasing value of this lumpsum. Moreover, since there is no unemployment allowance, those losing their jobs are without any form of coverage, except for the very few who access the voluntary health insurance.

In addition to the lack of redistribution and solidarity mechanisms within the NSSF, a certain number of workers' categories are excluded from accessing the NSSF and remain outside the publicly-mandated social protection schemes. Some worker categories should – by law – be covered by the NSSF such as agricultural workers, daily workers, and construction workers. However, they are not and have never been (Chalcraft 2019; Scala 2020).

Finally, most non-Lebanese are either excluded from the NSSF itself or from its coverage. While migrant domestic workers are excluded from the NSSF on the basis that their employment does not fall under the Labour Code, foreigners with a 'legal' labour contract must be registered at the NSSF, but only receive partial coverage. Article 9 of the Social Security Code states that foreign workers are only entitled to NSSF benefits if their country of origin respects the "principle of reciprocity" towards Lebanese citizens, meaning if it ensures to Lebanese the same coverage as for its national workers. Therefore, formal foreign workers only receive an end-of-service indemnity although they pay the same contributions as other enrolees.

"They call it the principle of reciprocity: If their countries are not fair or inclusive to Lebanese, they will not be inclusive of them. But nobody did the actual job of going through and checking in which countries Lebanese receive social protection coverage, and in many countries they do. So [this principle] is used as an excuse to keep out foreigners from the NSSF."¹⁵

¹⁵ Interview with a social protection expert in a local NGO, 23.05.2022.

Overall, the NSSF coverage was designed as a comprehensive and inclusive model of social protection for formal workers of the private sector. Although some of its components were missing or incomplete, the initial idea was to gradually build on the existing elements until the NSSF would be able to offer a comprehensive coverage model. Still, until today, i.e., nearly 60 years after its founding, the NSSF's coverage is fragmented, exclusionary, and far-off from offering a comprehensive and inclusive coverage. In practice, it only covers a minority of workers in Lebanon, leaving all those in the so-called “informal” sector without any social security. Patterns of fragmentation, exclusion, and discrimination of the NSSF reflect, while also reinforce, deep-seated social hierarchies and patterns of intersectional discrimination characterizing the Lebanese society (Scala 2022).

4. POLITICAL INTERFERENCE, UNDERFUNDING, AND BANKRUPTCY: THE FINANCING OF THE NSSF

Although there is no clear picture of the actual financial state of the NSSF, there is a general consensus that it is on the edge of bankruptcy (Zoughaib and Saghir, 2022). As stated by the caretaker Minister of Labour Moustafa Bayram in July 2022, the NSSF “is in its worst state ever”¹⁶. On the one hand, most of the investments of the NSSF have lost an important part of their value due to the devaluation of the Lebanese Lira. On the other hand, existing NSSF funds cannot be retrieved from the banks that have been implementing informal capital control mechanisms since the start of the crisis. In addition to that, the NSSF is continuing to collect its contributions in LBP, at the official exchange rate of 1 USD =1507 LBP. Therefore, it still documents its compensations and reimbursements at the official exchange rate, and is not aligning the value of its coverage with the current inflation. To understand the current financial crisis of the NSSF, one has to go further than just looking at the direct impact of the recent economic developments in the country and to analyse the political entanglements of its financial management. To do so, this section will look at the limitations of the NSSF model, and to the political interference in the financial management of the fund.

Financial (in)dependence and missing solidarity: The NSSF contribution system

From its beginning, the NSSF was designed as a contribution-funded scheme supposed to sustain itself and maintain financial independence.

¹⁶ Minister of Labour Moustafa Bayram, quoted after al-Markazia, 18.07.2022.

However, it lacked a principle of solidarity and reciprocity between generations and population categories. Over the years, this made it impossible to reach the envisaged self-sustainability and fostered different policy interventions that progressively hindered the financial independence of the fund. Overall, the structural financial challenges of the NSSF design have provided a fertile ground for political interference leading to structural underfunding and, eventually, bankruptcy.

According to its design, financial independence of the NSSF should have been achieved through contributions of its enrolees. Regular contributions are co-paid by the employers and the employees and calculated as a percentage of the monthly salary of the employee. The paying of these dues qualifies the worker for the services the NSSF offers. At the time of its establishment, the contributions were calculated as 38.5% of each employee's monthly salary. In January 2001, however, the newly established government of Rafik al-Hariri pressured the NSSF to reduce the contributions to 24.5%, in a context that sought to encourage the private sector. In 2017, the percentage was adjusted again after the health insurance scheme was extended for retired enrolees. Both the employer's and employee's share were increased by 1%. Out of the 25.5% contributions, the employer pays 22.5% and the employee 3%. Of these, 11% (3% employee's share and 8% employer's share) are allocated to the sickness and maternity branch, 6% (employer's share) are allocated to the family and education allowance branch, and 8.5% (employer's share) are allocated to the end-of-service indemnity. Compared to other countries in the region and in Europe, Lebanon is on the middle ground regarding the percentage share.

The amount of contributions has been a matter of dispute over the years. The state and the employers' representatives have pressured for a further reduction of the employer's share, while workers' representatives have opposed their request claiming the reduction would further aggravate the financial problems of the NSSF. Since the reduction of the contributions in 2001, the financial state of the NSSF has been wobbly. In particular, the sickness and maternity protection branch and the family and education allowances branch have had a negative balance since 2001. In 2018, the deficit of the sickness and maternity protection branch amounted to 1.378 billion USD (Merhej and Chehayeb 2022). The same year, although the family and education allowances branch had a profit of 34 Million USD, it still had accumulated a deficit of 150 Million USD during the previous years (Businessnews 2018). The deficits of the two branches are regularly compensated by the surplus of the end-of-service indemnity branch – a quasi-surplus since these are actual reserves of people who

expect their indemnity at some point. Moreover, the transfer of funds between sub-branches is not compliant with the NSSF law since its sub-branches are supposed to be financially independent and self-sustained. Still, this practice is implemented on a yearly basis.

In a few words, the contributive financial system of the NSSF is not effective, and the independence of the fund is compromised. Two other important factors further contribute to the fund's financial instability. Firstly, the Lebanese state has not paid its 25% share to the health and maternity branch since the end of the civil war. Therefore, the state owes around 5000 billion LBP (approximately 3 billion USD at the official exchange rate) to the NSSF. In the budget of 2022, article 124, the government vaguely promises a payoff of the debts accumulated until the end of 2021 over a period of 10 years. This had to be paid in September 2022. However, the government has not given any specification about the amount to be reimbursed (Al-Joumhouriya al-Libnaniyya Wizarat al-Maliyye 2022). The NSSF's general director Mohamad al-Karaki directly refused the article 124 of the proposed budget and demanded "a set of basic adjustments [to the law] that will protect the guaranteed funds and the insured" (Sawt Beirut International 2022). Moreover, in February 2022, rumours circulated about the alleged erasure of article 124 under the pretext of the planned comprehensive new law for social protection and pension system that has been discussed since 2005 without any implementations or realisations (Baalbaki 2022). Erased or kept, the likelihood of an effective settlement of the state's dues in the current political circumstances is rather low. As shown in the financial assessment of government spending on social protection by the Institut des Finances Basil Fuleihan in 2020, there has been a yearlong discrepancy between budgeted and effective expenses. This is due, among others, to the non-payment of the government of its NSSF contributions (Institut des Finances Basil Fleihan 2021, 92). This shows, on the one hand, that achieving financial independence for the fund through a contributory system constituted an unrealistic vision from the very beginning. On the other hand, this reveals how decisions within the NSSF, as well as from governments' side, constantly undermined NSSF's financial stability and sustainability.

In addition, the scarce control mechanisms on employers' contributions are an important factor of the underfunding of the NSSF. It is a rather common practice to declare lesser salaries, in order to avoid paying high contributions. As our fieldwork showed, employees are often asked to sign two contracts, one with the actual salary and one with a decreased, fake salary that will be registered at the NSSF. On the one hand, the NSSF is not able to monitor the accuracy of data provided

by employers, especially because of its endemic understaffing. On the other hand, no data exchange practice exists between the NSSF and the Ministry of Finance that also stores information about employers' salaries. Therefore, no triangulation mechanism can be implemented in order to ensure employers' commitment to the Social Security and Labour codes. Moreover, many companies have not paid their contributions for years although their employees are registered at the NSSF and agree with the NSSF on settling only part of their due contributions¹⁷.

Financing the state's debts: The investments of the NSSF

To understand the current multifaceted crisis of the NSSF, it is also important to look at the politically oriented (financial) management of the fund. According to the NSSF law, the institution is allowed to invest into four types of models: treasury bonds, immovable properties, loans to public entities and public corporations, as well as housing loans to civil servants and people registered at the NSSF (Merhej and Chehayeb 2022). All of these investments are to be made in the local currency, i.e., Lebanese Lira. Since the late 1980s, the NSSF has invested part of the end-of-service indemnity assets in treasury bonds, a rather common practice in the MENA region. However, it must be noted that unlike other MENA countries, Lebanon was at that time in the middle of its civil war (1975-1990). Therefore, the choice of investing in Lebanese treasury bonds was a high-risk bet. With the rising public debt of the Lebanese state since the early 1990s until today, the NSSF was for many years financing governments' debts and thus enabling the ineffective rentier economy of the post-civil war Lebanon.

In 2011, the funds of the NSSFs contributed to 5 billion USD, whereby 70 % were invested in treasury bonds and the rest in frozen Lebanese bank accounts. According to the recent report by the Public Source, in 2005 the financial committee of the NSSF proposed to the board of directors seven proposals on how to diversify the investment possibilities of the NSSF, including the possibility to invest in Eurobonds, i.e., foreign currencies.

According to the report, the board of directors refused the proposal and eventually "stopped appointing the Finance Committee" (Merhej and Chehayeb 2022). This choice was driven by political agendas, corroborating the lack of autonomy in the decision making of the NSSF, at least with regards to investments that would benefit the fund. Evidence of that can be found in the NSSF's general director

¹⁷ Interview with an employee of the financial directorate at the NSSF in Beirut, 01.06.2022.

Mohamad al-Karaki statements of 2021, who complained about the non-diversification of funds and blamed the government for their reluctance to allow the NSSF to invest in other currencies: “There was no political agreement in the eleven years I have been running the NSSF to diversify [investments] in other currencies, as we have to invest everything in Lebanese pounds (...) Investing in other currencies is the least we can expect as the NSSF pays all contributions in Lebanese pounds but medical costs are in foreign currencies” (Executive Magazine 2012).

“The worst state ever” - the current financial situation of the NSSF

“There is a problem of financing currently, you cannot get out of this. We have no idea what happened to the assets of the NSSF. There are so many questions: What is the financial situation of the NSSF? What are its possibilities so that it can continue? What happened to the money that those insured paid for years or decades? They cannot lose all the money they paid. So, the question of financing is a major challenge for all issues of social protection.”¹⁸

“The NSSF is currently in its worst state ever.” (Minister of Labour Moustafa Bayram, quoted after al-Markazia 2022)

Today, the consequences of this decades-long stagnancy and fiscal mismanagement are clearly visible. Due to the financial and economic crisis in Lebanon since 2019, and the subsequent devaluation of the local currency, the NSSF has lost a big part of its reserves. Moreover, the funds that are invested in treasury bonds are also blocked due to informal capital control measures implemented by the banks.¹⁹ As deposits exclusively come from the “end-of-service indemnity branch”, they are basically constituted by money - and the interest on this money - of Lebanese employers: i.e. an amount that legally belongs to those enrolled at the NSSF once they retire. If this money is blocked the question arises: how end-of-service indemnities will be paid in the long run? As for now, people are receiving the end-of-service indemnity in different instalments but because of the exchange rate

¹⁸ Interview with an expert on social protection in a local NGO, 17.05.2022.

¹⁹ In light of the financial and economic crisis in Lebanon, banks in the country have adopted informal capital control measures in October 2019, preventing depositors from accessing their money in USD. These informal restrictions are in place until today, and no political agreement on a formalisation of these measures could be reached.

applied (the official one), these amounts are meagre. Moreover, in the current situation, it is not possible to foresee for how long the NSSF will be able to ensure the disbursement of end-of-service indemnities to its enrollees. Likewise, since this money is used to finance the “sickness and maternity protection branch” as well as the “family and education allowance branch”, the ability of the NSSF to continue paying the services of these two branches is also in question.

One of our interlocutors described to us the current three biggest financial dilemmas of the NSSF: the devaluation of the currency, the blocked reserves and the unpaid government’s debts:

“Recently, the director of finance [at the NSSF] told me that every end-of-service indemnity that exceeds 20 Million will not be paid. [The indemnity amount] will remain in the bank that will give it to the person in different payments over two to three years. This is an [informal] agreement between the NSSF and the banks. There is money in the NSSF [accounts] but it is blocked. Moreover, the government does not pay its shares to the NSSF. The same with the hospitals: The NSSF transfers every first of the month a prepaid amount. The latter is assessed for each hospital on the basis of how many capacities each hospital has, etc. The hospital tries to access the money transferred to its account, but the banks do not allow the hospital to withdraw the money because of the [informal] capital controls. So, if you are insured with the NSSF and you come to a hospital, the hospital will not only take 90 % of the invoice from you since the NSSF is still paying at the rate of 1 USD = 1507 LBP. The hospital will also have no idea of when it will receive the 10 % NSSF share from the bank.”²⁰.

Despite several of these fatalistic statements from inside and outside the NSSF over the years, the exact financial situation of the NSSF is not at all clear: “The last external audit of the NSSF was conducted in 2010 and since then nothing. But more than this, even internally, they have no idea where they stand and they say it bluntly: ‘we don’t have any financial data and we don’t know how long we can sustain’. Moreover, in the context of a bank restructuring how will the money of the NSSF be treated? Will there be any recognition that these are people’s savings and that these assets are for social protection?”²¹ With such an unclear picture, any thought of reform or restructuring of the NSSF, its coverage and contribution system seems difficult if not impossible.

²⁰ Interview with a social protection expert in a local NGO, 23.05.2022.

²¹ Interview with a high-ranking employee at the NSSF, 05.05.2022.

Since the NSSF does still reimburse at the rate of 1507 LBP = 1 USD, its coverage is basically no longer existing: “Years ago, I got enrolled at the NSSF through the company of my sister. And every time I had to do medical tests or whatever, I would go to the NSSF and give them the receipts. Ok, sometimes they were late in giving me the money back but at the end of the day you would get something back and it was worth it. Two months ago, I had to do a full blood test, the cost was 600,000 LBP. The NSSF would give me back 19,000 LBP. 19,000 imagine. What did I do? I paid myself and tore apart the receipts.”²². Another interlocutor - an employee at the NSSF- states: “Apparently, Mohamad al-Karaki was asking the government to take contributions at the rate of 3900 LBP and therefore reimburse the same rate. But the guy is weak, this was in July 2020, look where we are now, the Lebanese Lira trades at 29,000 and the NSSF is still at 1500. I was getting a confirmation for a hospital entry the other day, for someone I know, and I entered the office of admission in Bir Hassan. There used to be a long line of people waiting, now there were two people. No one relies on the NSSF anymore...”²³

This statement leads to the overarching question of this report: what attempts have been done and are being done to reform the NSSF? What kind of reform is necessary to not just alleviate the current crisis of the fund but to actually fix its inherent issues of mismanagement, flawed governance, political permeability, and patterns of exclusion, fragmentation and discrimination? And what are the realistic options and pathways for such reform(s)?

5. POSSIBLE REFORM OF THE NSSF

“If you again look at the social protection needs and gaps you will see that the NSSF and the public sector cooperative are by far – despite all these limitations – the largest contributor to the reduction of poverty in this country.”²⁴

“I feel the politicians do not want the NSSF anymore. They want to privatise it and make it like an insurance company.”²⁵

²² Interview with an NSSF beneficiary, 15.06.2022.

²³ Interview with an employee at the NSSF, 01.06.2022.

²⁴ Interview with a social protection expert in an international NGO, 12.05.2022.

²⁵ Interview with an employee at the NSSF, 01.06.2022.

The assessment provided so far clearly shows that NSSF's shortcomings have to be understood and reinscribed in a long-term analysis that takes into account structural administrative and fiscal issues, as well as their political entanglements. Nevertheless, the exacerbation of the NSSF's flaws and shortcomings through the current crisis calls - more than ever - for its urgent reform. A contrasted discourse can be drawn from the available literature and interviewees' point of view on an NSSF reform. On the one hand, recent studies (Chehayeb and Merhej 2022; Dagher and Zoughaib 2022) as well as our interlocutors provide a fatalistic assessment. An exemplary sentence that we heard throughout our inquiry was:

"Like the whole country, the NSSF is gone, there is no way to save it, they (i.e., the politicians) stole it from us as everything else."

On the other hand, the NSSF is viewed as the only possible starting point for the reform of the social protection system in Lebanon. Enrolees and employees of the NSSF as well as interviewed experts and policy makers agree on the role played by the NSSF prior to the crisis, despite its multiple deficiencies: "The NSSF - despite its problems - used to be an institution of trust and it was an important component of the social protection system in Lebanon - a flawed one within a flawed system but still with its functioning sides".²⁶ For them, any urgent reform of the social protection system should start by restructuring the existing institutions. As suggested by one of our interlocutors: "There is no possibility to think about reforming social protection in the country without starting from the existing institutions such as the NSSF. And there is no possibility of not reforming - especially in the current crisis - but it needs political will from the government".²⁷ As already highlighted, the question of reforming the NSSF is not new. What is indeed new, however, is the urgency of such a reform. The following section delves into these attempts.

"A way but no will" - Governments' attempts of a NSSF reform

In November 2002, the Lebanese government presented its "request for international support" at the Paris II meeting in order to pledge for international aid money. In supporting its request, the government praised its recent decision to reduce the employer's contribution to the NSSF from 38,5 % to 23,5 % as a major achievement "to promote private investment" and "to attract more foreign investment" (Lebanese Republic 2002, 20). At the following conference "Paris III"

²⁶ Interview with a social protection expert in a local NGO, 23.05.2022.

²⁷ Interview with a social protection expert in a local NGO, 25.05.2022.

in January 2007, the government raised a different tone in relation to the topic of social protection and connected its pledge for foreign aid with half-hearted promises of reform in the social sector “to protect the most vulnerable segments of the population.” (Abi Rached 2008). These promises included that of a long-awaited transformation of the NSSF’s end-of-service indemnity into an old-age pension scheme - as designated in the 1963 NSSF law.

The draft bill to this reform had already been finalised in 2004, after the office of the Prime Minister Rafik al-Hariri had established a special committee for its drafting two years earlier. In 2004, the World Bank was asked to study the bill and recommend possible edits to it, before it could be adopted by the Lebanese Parliament. The World Bank’s recommendation led to political differences within the parliament and the bill ended up in the drawer for many years. In 2008 - one year after Paris III - the parliament brought the bill once more to the table, referring it back to its different parliamentary committees. In addition to that, another special committee under the leadership of MP Nicholas Nahhas was founded. No further government’s actions followed. In 2010, the Ministry of Labour tried to bring the draft bill back to discussion, launching a new round of review of the draft law in different parliamentary committees. Again, no reform of the NSSF was implemented. Ten years later, in 2020, the MP Nicholas Nahhas ensured that the bill was in its last stages and that he was “sure” that the review would “reach a very advanced stage soon” allowing “to decide on that law” (Al-Liwaa 2020). Two years later, in our interviews for this report (in April 2022), external experts supporting the parliamentary committee appointed by Nicholas Nahhas confirmed to us that the law is in its last stages. They specified that, next to a pension scheme, the bill also includes a reduction of the number of board members as well as the appointment of a director of investment at the NSSF - independent of the general director: “So, as of yesterday, we had the final meeting with the head of the committee in parliament who has been working with a lot of our support and who produced a new text of law that will establish a new pension system. We believe that this is even more important now because the end-of-service is completely failing, basically people retire with nothing. (...) So this parliamentary committee will finish its job next week by saying ok, we have produced a full draft and then from this level it is going to go to different committees, and then for approval by the parliament. But what has happened in the past few months is that there has been quite a lot of dialogue amongst the different ruling groups to find some sort of agreement on this reform and so it is possible that with the new parliament it could be given priority.”²⁸

²⁸ Interview with a social protection expert in an international NGO, 12.05.2022.

In July 2022, two months after the parliamentary elections, the draft bill was not yet on the parliamentary agenda. Asked about the possibility of the final realisation of the law, many of our interlocutors expressed their scepticism, not only because the law had been on the “political agenda” for 18 years, but also because it tackles and addresses one aspect of the NSSF without providing a comprehensive social protection reform strategy: “We are still in the same thinking, we think about the details and then we fix a bit this detail and a bit another detail, but there is no comprehensive strategy of reform. In my opinion, we either work on a strategy for a policy of social protection or leave it. But with the discussed law [of an old-age pension], the government will only add some benefits for the private sector workers. And then the employees of the public sector will come, and demand an increase in their pension so you have to do this as well, and then the people who are not covered at all will demand social protection but the government cannot include them. The problem is not the law but the way of thinking. We need to think about an inclusive system of social protection”²⁹

In addition to this, any attempts to reform some components of the NSSF were hindered by political competition. The current caretaker Minister of Labour Moustafa Bayram recently proposed what some of our interlocutors consider a “courageous” reform plan to change the composition of the current administrative board. However, his proposal has been quickly dismissed.

“Social protection as a human right” - the National Social Protection Strategy for Lebanon

“The existing political deadlock in the country is one of the most important challenges. And with it comes the missing trust in the state that is also a huge challenge. All the discussions about long-term strategies and policies have been pending since years. So we stick to short-term unsustainable solutions like targeting programs. This is the main dilemma: because of all these failures of long-term strategies, we have started to ignore the state and its role and rely on other stakeholders as external donors. But the main question is: how can we keep relying on the public institutions, even if we have a problem with the politicians? [In this context] How can we strategize on a long-term basis?”³⁰

²⁹ Interview with a social protection expert in a local NGO, 17.05.2022.

³⁰ Interview with a social protection expert in a local NGO, 17.05.2022.

The description of the structural flaws of the NSSF do not only prove its inability to alleviate the effects of the economic crisis on its enrollees. It also provides evidence for the main argument of this paper: any reform of the NSSF has to be integrated into an overall reform of the social protection system in the country. In addition to that, to be effective and socially just, the reform of the social protection system has to build upon an inclusive and rights-based approach to social protection.

The recently elaborated National Social Protection Strategy, that was born of a years' long collaborative and participatory process, including the Ministry of Social Affairs, the UNICEF and ILO, and in cooperation with several government agencies, civil society organizations and academia, is the most recent and notable effort in this regard. On May 22nd, 2022, the appointed cabinet discussed the strategy and, in principle, decided its implementation, albeit with few revisions (Minutes of Cabinet Meeting 2022).

The aim of the strategy is the development of a “nationally defined and inclusive social protection legal and policy framework that recognizes social protection as a human right”. It includes the different components that fall under social protection, i.e., social insurance, social assistance, social welfare, access to social services and labour market activation (National Social Protection Strategy January 2022). The draft document of this strategy was finalised in January 2022 and was made available for this report. Within this policy proposal, the reform of the NSSF is envisioned as part of a broader strategy towards the development of a new social contract between Lebanese citizens and the Lebanese state. The strategy takes into account NSSF's gaps and challenges and suggests targeted reforms in the administration, governance, cover mechanisms and financing of the fund.

It proposes:

- The extension of the mandatory social insurance of the NSSF to the whole working population, without exceptions, including informal and migrant workers that are currently not covered by any mandatory social insurance scheme in the country.
- The introduction of life-cycle protection mechanisms, most of which are included in the NSSF law of 1963, but were never implemented. Namely, this policy proposal includes the establishment of a retirement pension scheme, a reviewed family allowance scheme, a work injury fund, an unemployment insurance fund, as well as sickness, maternity and disability benefits.

A DECREPIT SOCIAL SECURITY PILLAR.

Salvaging The National Social Security Fund in Lebanon Amidst The Crisis.

- The development of a comprehensive social health insurance whose objective is to cover all residents of the country, therefore not only the working population and their families.
- The strengthening of the institutional coordination between the NSSF, the Ministry of Labour, and the Ministry of Finance.
- The reform of the NSSF governance structure and decision-making bodies; Notably, the strategy intends the maintenance of the tripartite representation but a streamlining of decision making. Moreover, the size of the NSSF Board of Directors will be reduced and include experts and representatives of all stakeholders. Transparency and sharing of financial information and reports is to be improved and decision making as well as implementation will be decentralised and transferred to the regional offices.
- The enhancement and transformation of the institutional capacity of the NSSF's administration including decentralisation and digitalisation.
- The development of a new investment plan.

The strategy also provides different possible policy options regarding the financing and overall governance of the NSSF as well as of other social protection institutions. It proposes three possible reform options:

- The merging of different existing institutions of social security (namely: the NSSF and the Public Sector Cooperatives), or
- The creation of a new, centralised, social protection institution, or
- The reforming of existing institutions.

Within all these options, the strategy stresses on an improved coordination between NSSF, Ministry of Labour, and Ministry of Finance as well as a combined financing mechanism, based on contributions and general taxation.

The topic of financing the reform of the NSSF or any other social protection institution leads to the central question of identifying the necessary fiscal space.

Reprioritization in crisis - the financing of a reformed NSSF

When asked about a possible reform of the NSSF, many of our interlocutors answered that the combination of a bankrupt state, an

illiquid institution as the NSSF, and little to absent political will does not give a lot of space for realistically discussing any potential reform of this institution. For many of them, external donors' support constitutes the only way to finance any reform of the Lebanese social protection framework. Contrary to the widespread belief that the reform of the social protection system in general, and of the NSSF in particular, would be tight to external financing, we suggest looking at the current state of public spending on social protection to assess available resources to reform the NSSF.

Although a detailed financial state of the NSSF is not available to date, a general overview of the Lebanese state's spending on social protection has been conducted by the Institut des Finances Basil Fleihan in 2021. The report looks at budgeted data from 2017 to 2020 and at spending data from 2017 to 2019 (Institut des Finances Basil Fleihan 2021, 16). The report's objective is to assess the "financing, distribution and impact of current spending" in order to suggest a "reallocation and reprioritization of existing social spending" (Institut des Finances Basil Fleihan 2021, 13).

The majority of the social protection schemes in the country are financed by the general budget, of which an important part (around 70 %) comes from regressive consumption taxes. By definition, regressive taxes are paid equally by all segments of society regardless of socio-economic status. At the same time, there is hardly any redistribution within any of the contributory systems in Lebanon. As a consequence, the most vulnerable individuals in the country pay a high share of this spending without actually benefiting from it (Institut des Finances Basil Fleihan 2021, 86). Therefore, a change in the direction of a more redistributive and inclusive system could open a window of opportunity to distribute burdens as well as benefits and social services in a more equal and inclusive way. Next to these 70 %, around 27 % of the social protection spending derives from contributory-based systems such as the NSSF or other employees' funds. As highlighted in this report, no redistribution mechanisms currently exist in the NSSF structure. Moreover, the larger part of the working population, i.e., informal workers, as well as unemployed, have no access to the NSSF (Institut des Finances Basil Fleihan 2021, 31).

Therefore, social protection spending in Lebanon is not only skewed towards certain segments of the population, but the higher burden of its overall financing lies on the lower-class segments of the society, mainly through regressive taxation. These are the people that are also the least benefiting from this system. Moreover, according to the

Institut des Finance Bassil Fleihan report, most spending on social protection is actually skewed towards public sector workers especially military personnel and those in the private sector in high-ranking positions (Institut des Finances Basil Fleihan 2021, 44).

Although this analysis gives a rather unjust picture of social protection spending in Lebanon, it is surprising that the actual share of the GDP for social spending between 2017 and 2020 ranges between 5 % and 6 %, which is globally relatively low but exceeds the standard of many Arab countries approximately twofold (Institut des Finances Basil Fleihan 2021, 27). If one expands the definition of social protection spending beyond the traditional budget classification, this percentage gets even higher and reaches around 13 % of the GDP which lies slightly below European and Central Asian standards (Institut des Finances Basil Fleihan, 39). This means that the spending of the Lebanese state on social protection is not meagre, but rather badly allocated and distributed.

Many of our interlocutors as well as other experts and policymakers referred to the impossibility of a reform of the NSSF due to the financial burden that such a comprehensive reform would entail (Union of Arab Banks Magazine 2020). This discourse is corroborated by the fact that the NSSF has lost most of its assets throughout the current crises (Zoughaib and Saghir 2022). Still, the here presented analysis of the actual spending on social protection shows that the fiscal space for such a reform could be (at least) partly created by a restructuring, reprioritization and reallocation of the financing, budgeting, and spending on social protection in Lebanon. The idea that any reform of the social protection framework needs external financial support from the international community is flawed. The introduction of a more progressive taxation system and a different distribution of the existing social spending could lay the basis for the reform of the NSSF and of the social protection framework.

Conclusion

This report addresses the various aspects of the failures and near collapse of the NSSF following the economic and financial crisis in Lebanon since 2019. By giving an overview of the NSSF developments throughout its history, it shows how the crisis reveals long standing shortcomings of the fund, linked to its design and structure from 1963 until today.

This study argues that NSSF's inability to protect its beneficiaries from the impact of the current severe economic crisis has to be understood as part of a more general shortcoming of the overall Lebanese social protection system. The current crisis has only reinforced and revealed the dynamics of discrimination, fragmentation, and exclusion inherent to the Lebanese scattered social protection framework in general, and to the NSSF in particular.

Our assessment also shows that a crucial dimension to scrutinise and understand the reality of the NSSF is that of political interference in the institution's developments throughout its history. Despite its legal partial independence, the NSSF is practically governed by sectarian political elites able to influence the appointment of its decision-making bodies, as well as its investments. In this context, any reform or transformation of the NSSF appears to be dependent on political will or reluctance. Despite its multiple shortcomings, the NSSF remains the main social security pillar in the country, and hence can be considered as the starting point for any reform of the Lebanese social protection system. From this perspective, this report argues that the NSSF needs a comprehensive restructuring and reform that re-establishes the institution as an essential pillar of social security based on a universal right to social protection for all residents in Lebanon.

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