

STATELESSNESS IN LEBANON

SUBMISSION IN VIEW OF LEBANON'S

SECOND PERIODIC REVIEW BY THE HUMAN

RIGHTS COUNCIL

FRONTIERS RUWAD ASSOCIATION

MARCH 2015

FRONTIERS RUWAD ASSOCIATION

Frontiers-Ruwad (FR) is a Lebanese non-governmental, non-political, non-profit human rights organization, established in 1999. Frontiers-Ruwad works towards creating a requisite protective environment for refugees and stateless persons in Lebanon based on the underlying principle that refugees and stateless persons deserve to live in dignity, benefit from protection, and enjoy their human rights.

Frontiers Ruwad Association is a member of ICVA, in addition to many international coalitions and networks, such as the International Detention Coalition; The Southern Refugee Legal Aid Network; EMHRN Working Group on Migrants, Refugees and Asylum Seekers; Migreurop. FR participates in the yearly NGOs Retreat on Statelessness organized by UNHCR – Geneva.

Since 2010, FR works in close partnership with UNHCR – Beirut Office and other UN Agencies on identification of stateless persons, prevention and reduction of statelessness in Lebanon.

ADDRESS:

Badaro Street, Fawaz building, Beirut – Lebanon

P.o.Box: 13-6299 Chouran

Tel: +961 1 383556 / +961 1 389556

Mob: +961 3 457324

Email: advocacy@frontiersruwad.org

Web: frontiersruwad.wordpress.com

CONTACT PERSON:

Ms. Samira TRAD

Program Director

Email: frontierscenter@frontiersruwad.org

STATELESSNESS IN LEBANON

A. THIS REPORT

1. Frontiers-Ruwad's 2010 submission entitled "Human Rights of Refugees, Asylum Seekers, Migrants and Stateless in Lebanon"¹ raised the issue of statelessness but it was not discussed and, consequently, there were no related recommendations in terms of the State obligation to prevent and reduce statelessness and identify and protect stateless persons.
2. This report is the first submission dedicated solely to the issue of statelessness in Lebanon.

B. SCOPE OF INTERNATIONAL OBLIGATIONS

3. Lebanon is not party to the 1954 convention related to the status of stateless persons, nor to the 1961 convention on reduction of statelessness.
4. However, Lebanon is party to all six core human rights instruments that guarantee the basic and fundamental rights of stateless persons.

C. CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

5. The Lebanese Constitution does not explicitly spell out the principles that should regulate the right to nationality and rights of stateless persons. It only refers to the laws regarding the acquisition and loss of the Lebanese nationality.² This makes it impossible to challenge the constitutionality of any related positive law.
6. Yet, human rights conventions have been integrated in the Preamble of the Constitution, and as such have acquired the force of constitutional norms.³ A number of these conventions guarantee the right to nationality, the right to identity, birth registration, and personal status documentation.

¹ Available at http://www.upr-info.org/sites/default/files/document/lebanon/session_09_-_november_2010/fra_frontiersruwadassociation.pdf

² Article 6 of the Constitution briefly states: "Lebanese nationality and the manner in which it is acquired, retained, and lost is to be determined in accordance with the law". Lebanese Constitution of 23 May 1926 and its amendments, available in Arabic at <http://www.lp.gov.lb/SecondaryAr.aspx?id=12>

³ Para (b) of the Lebanese Constitution states that Lebanon is "Arab in its identity and in its association. It is a founding and active member of the League of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception." Lebanese Constitution, issued on 23 May 1926, and all amendments, available at <http://www.lp.gov.lb/doustour/default.htm>;

See Constitutional Council, Decision 2/2001, dated 10 May 2001, considering that the Constitution's preamble has the same force as the whole Constitution. Available in Arabic at <http://www.conseil-constitutionnel.gov.lb/ar/arabic/arrets.htm>

7. In addition, according to Article 2 of the Code of Civil Procedures, international treaties prevail over all national legal texts.⁴
8. The nationality law in force dates to 1925 and its minor amendments also date to the late 1950s. The law, though not completely in conformity with the related internationally recognized standards, contains some safeguards against statelessness as it embodies *jus sanguine* and *jus soli* grounds for the acquisition of Lebanese nationality by operation of the law at birth, though for limited situations.
9. Also, the law regulating civil registration procedures was enacted in 1951. The last amendment was in 1971 (amendment related to death certificate)⁵. There are no legal provisions related to documentation for stateless persons.
10. In addition to the civil personal status documentation law, there are 16 religious personal status laws in Lebanon. This duality leads in many situations to statelessness.
11. There are no current law proposals related to stateless persons in terms of birth registration and documentation.
12. Since 2010, two law proposals were submitted to the government with the aim of amending the nationality law to allow women to pass the nationality on to their husbands and/or children, regardless of whether the husband or the children have another nationality or might be otherwise stateless. In 2012, the Ministerial Committee charged with reviewing these proposals rejected them on grounds of "high national interests".

D. INSTITUTIONAL AND HUMAN RIGHTS INFRASTRUCTURE & POLICY MEASURES

13. There are no specific human rights institutions or national bodies concerned with statelessness.
14. In 2012, the Higher Council for Childhood established a special inter-ministerial committee for unregistered children of Lebanese parents.
15. Also in 2012, a Working Group (WG) on Statelessness composed of five ministries, UNHCR, OHCHR, UNICEF, and Frontiers-Ruwad Association was established. The WG meets regularly to discuss issues related to rights of stateless persons.

⁴ Article 2 of the code of civil procedures states that "when there is contradiction between the provisions of the international conventions and the regular laws, the first prevail in application over the second".

⁵ Personal Status Documentation law, dated 17 December 1951 [the law has no number], Official Gazette Issue 50 dated 12/12/1951

16. The National Human Rights Action Plan launched by the Human Rights Parliamentary Committee in 2006 was adopted in 2012. It did not include the issue of statelessness in Lebanon.
17. The first national UPR report submitted by the State of Lebanon in 2010 did not mention statelessness issues or any related issue, such as the right to identity or civil registration.

E. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

- **The right to nationality**

18. International instruments binding on Lebanon recognize the right of everyone to nationality,⁶ without any discrimination of any kind.⁷ While the interpretation of this right indicates that although it is not an obligation for States to give their nationality to every person born on their territory, States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he or she is born.
19. In Lebanon, there are tens of thousands of stateless persons. The reasons for their statelessness vary. Some have acquired that status from their ancestors who failed to register in the only population census of 1932 following the creation of the State of Lebanon and the Lebanese nationality. Others, registered as Qayd ad Dars (Under Study), fled to Lebanon in the 1930s from persecution from neighboring countries. And, some are children born to Lebanese parents whose births are not registered.
20. Article 1 (1) of the Nationality Law considers as Lebanese every person born of a Lebanese father (paternal *jus sanguine* ground) wherever the child is born. This protects the child born abroad to a Lebanese father from ending up stateless if the country of birth does not provide nationality on *jus soli* ground or if the mother is a foreigner and cannot pass on her nationality to her child on *jus sanguine* ground.
21. Article 1 (2) and (3) related to *jus soli* ground considers as Lebanese every person born in Lebanon who did not acquire upon birth a foreign nationality by affiliation; or every person born in Lebanon of unknown parents or of parents of unknown nationality. These clauses prevent non-Lebanese born in Lebanon from ending up stateless. The *jus soli* provisions are limited to those who meet their strict conditions.
22. The acquisition of the Lebanese nationality is based upon the registration of a child's birth under his or her father's personal status record following an act of declaration to the

⁶ UDHR (Art. 15), ICCPR (Art. 24), CRC (Art. 7)

⁷ UDHR (Art.2), ICCPR (Art.2), CRC (Art.2)

territorially competent civil status officer of a birth certificate duly filled and signed, within the first year of the birth.⁸ After one year, registration of the birth can only be made by a judicial decision that pronounces the child to be Lebanese since birth.⁹

23. In principle, these birth registration procedures should apply to *jus sanguine* and *jus soli* cases. However, the law on personal status documentation is silent on birth registration procedures for *jus soli*, except for foundlings. In practice, such cases are obliged to resort to the courts to prove their eligibility to the Lebanese nationality. The lack of clear definition and procedures lead to conflicting jurisprudence on the one hand, and the cost and lengthy judicial proceedings on the other hand hinders many from going to courts and they end up stateless.
24. Foundlings may end up stateless as the provisions and conditions for their registration administratively are not always met. Further, the social care institutions where foundlings are placed appear to fail to complete the registration procedures. There are no systematic judicial control mechanisms over these institutions to ensure that they are abiding by the rules for the registration and acquisition of the nationality for foundlings. These children become stateless and may become victims of human trafficking.
25. Stateless persons who can prove that their ancestors were subjects of the Ottoman Empire and were residing in Lebanon when the Lebanese nationality was established may claim the Lebanese nationality at any time before the courts. Despite the possibility of using all means to prove that they meet the conditions, many individuals are unable to provide such evidence after many decades. As such, generation after generation, they remain stateless.
26. Lebanese nationality laws violate the internationally established human rights principle of non-discrimination on any grounds. Lebanon, upon ratification of the CEDAW entered serious reservations on Article 9, paragraph 2, related to the equal right of women to pass their nationality on to their children, and on Article 16, paragraphs c, d, f and g, related to equality within marriage.¹⁰
27. Contrary to the CRC provisions, the Lebanese nationality law discriminates against illegitimate (natural) children in terms of age and conditions of acquisition of nationality by

⁸ Article 11, Civil Status Records Law, dated 7 December 1951, *Official Gazette*, issue no. 50, dated 12 December 1951.

⁹ Civil Cassation Court, Decision 5, dated 24 November 1983, available at

<http://www.legallaw.ul.edu.lb/luonline/Jurisprudence/ViewerBefore2000.aspx?DocumentId=3146.xml>

¹⁰ These paragraphs provide that: "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;"

operation of the law. While legitimate children born to a Lebanese father are considered Lebanese regardless of their age or the nationality of their mother, the child born out of wedlock is considered Lebanese only if a Lebanese parent recognizes his/her affiliation while the child is a minor and before such recognition by the non-Lebanese parent. In addition, the personal status laws of the various religious groups regulate the recognition of children born out of wedlock in different manners, whereby a Muslim father cannot recognize a child born out of wedlock for example. All these conditions and different provisions may lead an illegitimate child to statelessness particularly if that child did not acquire another nationality.

- **The right to identity / legal personality**

28. The international instruments binding on Lebanon provide for the right of everyone to be recognized as a person before the law.¹¹
29. Stateless persons in Lebanon are considered non-existent; they lack any legal status or documentation and there is no special legal framework governing their status and rights nor a national census of stateless persons.
30. With the exception of persons belonging to the Qayd ad-Dars (Under Study) category who are registered with the authorities on a special registry, Stateless persons in Lebanon have no personal status registry. Neither their marriages nor birth of children are documented.
31. Stateless persons may be issued laissez-passer travel documents on case by case basis. Such a document does not give them a personal status record nor allows them to enjoy any basic rights.
32. Despite their non-recognition, stateless persons have the legal personality and may be prosecuted for criminal acts, according to Article 19 of the Penal Code.
33. Stateless persons have the legal personality required to access justice to defend and claim their rights, as any other person in Lebanon, provided that they manage to obtain any kind of documentation that can prove their identity. Usually, their identity is proven by an *ad hoc* attestation issued by the local mayor.

- **The right to Civil/ Birth Registration**

34. The Lebanese laws were not brought into compliance with the international human rights instruments binding on Lebanon that stipulate for the right of every child to be immediately registered at birth.¹²

¹¹ UDHR (Art. 6), ICCPR (Art. 16)

¹² ICCPR (Art. 24), CRC (Art. 7)

35. The personal status documentation law does not cover the births from stateless parents. Due to lack of personal status records for stateless persons, children born to unregistered parents are not entitled to have their births registered.
36. Parents are the sole responsible to complete the procedure for the birth registration of their children, i.e. to fill out the birth certificate, get it authenticated by the local authority (*mukhtar*) and have it signed by the doctor who assisted the birth of the child, then submit the declaration with the birth certificate to the competent civil authorities and follow up to ensure its execution.
37. If the parents neglect to complete these procedures, or if the requirements for birth registration are not complete such as registration of their marriage, the newborn child becomes stateless.
38. In principle, recourse to the court for late birth registration is possible. However, as most stateless come from poor and uneducated background, ignorance of laws, lack of financial means and the weak legal aid system are among the main reasons that lead to non-registration of births through courts. A recent unpublished field study conducted by Frontiers Ruwad Association in 2012 showed that almost half (42%) of the stateless in the study's sample (1000 stateless individuals) are stateless for failure of birth registration by their parents.
39. The duality of legislative systems related to marriage and affiliation may lead to cases where marriages or children could not be registered, and therefore to statelessness of the children. This is due to the fact that the requirements and criteria for the validity of marriages and legitimacy of children are not the same under religious and civil regulations. This may lead to a marriage or a child affiliation being considered legitimate and valid from the religious point of view, while they may not be registered with the civil authorities. This is especially the case of second marriages concluded by men belonging to a religious group that prohibits polygamy before a different religious authority that allows polygamy, without declaring their religious conversion to the civil authorities before the marriage or birth of children. Also, many people fail to approach civil authorities to register their marriages due to the common misconception that the confirmation of the marriage by religious courts is sufficient to render the marriage official, which makes it difficult to register the births of children later. Further, this affects children born out of wedlock, whereby the Muslim confessions do not allow a Muslim man to recognize the affiliation of an illegitimate child, which may lead to statelessness in the case where the mother does not recognize the child or her country's laws do not pass the nationality on to the illegitimate child.
40. Civil registration is not computerized. All procedures to declare and register birth are to be done in person and on paper, which makes the control of the process and its follow up difficult, and may lead to statelessness.

41. The Lebanese authorities have shown an initial will to discuss ways to improve the birth registration system. Frontiers Ruwad Association organized in 2014 a series of meetings with civil servants of the WG ministries to discuss the limitations of the current birth registration system. The recommendations focused on facilitating the procedures and making them more accessible to all persons. The discussions are continuing in 2015.

- **The right to enjoy fundamental rights**

42. Lebanon violates its international human rights obligations related to the right of everyone to enjoy rights without discrimination.¹³

43. Stateless persons in Lebanon are generally denied basic and fundamental human rights. The lack of legal protection framework for stateless persons puts them in an exceedingly disadvantageous situation and makes them subject to serious abuse and exploitation. In general, stateless persons in Lebanon belong to economically disadvantaged social classes and as such constitute an extremely vulnerable and marginalized population.

44. Stateless persons cannot enjoy any civil and political rights; they have no access to social security or to the right to work in the formal sector.

45. They can be enrolled in school but they must obtain an *ad hoc* exceptional authorization from the Ministry of Education to sit for official examinations at the intermediate and secondary levels. This is done on case by case basis.

46. They have no right to access public health services except in emergency situations, whereby they may be admitted to hospitals only to receive life-saving primary care.

47. Qayd ad-Dars (Under Study) persons enjoy basic rights, such as the right to free movement, education, and work. However, their access to documentation is conditioned to the payment of a yearly fee amounting to USD 200. As a result, some of them become undocumented, due to the financial burden of renewing their residence permits, and are thereby denied these rights. In addition, they have no right to social security benefits or to public service jobs.

F. RECOMMENDATIONS

48. Lebanon should work towards elaborating the constitutional norms regulating and protecting the right to nationality and the prevention of statelessness.

49. Lebanon should amend its nationality laws to eliminate gender discrimination in the access to nationality by the husbands and children of Lebanese women.

¹³ UDHR (Art. 2), ICCPR (Art. 2), CERD (Art.5), CRC (Art. 2)

50. Lebanon must establish a comprehensive rights-based protection framework for stateless persons, in order for them to be identified, registered and issued with documentation as well as to ensure their access to basic and fundamental rights.
51. Lebanon should carry out a comprehensive survey to identify the size and profiles of stateless population residing in Lebanon.
52. Lebanon must amend its personal status documentation law to allow administrative birth registration beyond the one-year deadline, and to make birth registration the responsibility of the state and not solely of the parents.
53. Lebanon should ensure that individuals born in Lebanon who are eligible for the Lebanese nationality on *jus soli* grounds can obtain the nationality automatically at birth without recourse to the judicial authorities.
54. The personal status records and related process should be completely computerized to make birth registration adequate and more efficient, and to be able to obtain reliable official statistics on births, among other personal status issues.
55. Lebanon should take appropriate measures to remedy the low level of recourse to courts for late birth registration, by allowing administrative registration within a grace regularization period, or by establishing swift and free of cost judicial procedures for late birth registration
56. Lebanon should take practical steps towards reducing and preventing statelessness by setting a timeline and establishing a specialized body composed of experts in partnership with civil society and with the assistance of relevant UN Agencies.
57. Lebanon should be active in the implementation of the 10 Actions of UNHCR Campaign to end Statelessness in 10 years.