



Frontiers, Ruwad Association is a Lebanese non-profit independent organization providing professional, sustainable assistance to marginalized people to assist them to understand and access their rights.

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**HUMAN RIGHTS OF REFUGEES, ASYLUM SEEKERS, MIGRANTS AND
STATELESS IN LEBANON**

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1. Frontiers Ruwad (FR), is an independent Lebanese grass roots human rights organization working on behalf of asylum seekers, refugees (Palestinians and non-Palestinians), stateless persons, and migrants. FR's philosophy revolves around the principle that every person has the right to legal identity; that no one should live in insecurity as a result of lack of identity or legal documentation, and that marginalized people need protection.

EXECUTIVE SUMMARY

1. Violations of fundamental human rights affecting stateless and migrants including refugees – most notably their right to seek asylum, and to liberty and security - occur regularly and systematically in Lebanon, at the level of legislation, regulations, policies and practices.
2. Weaknesses in the administration of justice, particularly in relation to the execution of judicial decisions, lead to violations of the right to personal liberty and denial of effective remedy for foreigners.
3. Lebanese nationality laws do not fully comply with general international standards both in terms of the basis for nationality (*jus sanguinis* versus *jus soli*) and in terms of respect for the principle of non-discrimination

I. BACKGROUND AND FRAMEWORK

A. Constitutional and legislative framework relating to the right to asylum, nationality, and security

4. There are a number of draft amendments to laws on the government's agenda. Among them are i) an amendment to the nationality law, granting citizenship to the children of Lebanese women, and ii) a proposal for the amendment of the 1962 Law on Entry and Exit, which, among other things, would exonerate refugees and asylum-seekers registered with UNHCR from the crimes of illegal entry into and presence in the country.

B. Institutional and human rights infrastructure

5. In January 2008, the Internal Security Forces (ISF) created a Human Rights Department to, among other things, train the police on Lebanon's international human rights obligations; create a human rights database, and coordinate with various stakeholders including NGOs.
6. In 2005, the Lebanese Parliament launched the process to set up a national human rights action plan. Background papers were prepared on a number of areas/themes, among them Palestinian and non-Palestinian refugees. The background papers for these two categories of refugees were submitted in July 2006 and were only discussed in early 2010, although all other subjects had been finalized and discussed some two years earlier.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

Right to life, liberty and security of the person

7. Arbitrary detention and prolonged detention after the expiry of judicially imposed sentences, as well as "administrative" detention, have long been among the cruelest problems confronting refugees, asylum-seekers and all other migrants in Lebanon. The practice is to transfer these detainees upon the expiry of the imprisonment term from the authority of the prison administration to the GSO, the effective immigration authority that decides their release or deportation, even if a court has acquitted them, ordered immediate release or did not pass a sentence of deportation. GSO also practices arbitrary detention when it arrests and detains migrants (including refugees and asylum seekers) without bringing them before a

judge, in some cases for more than a year, although Lebanese law only allows for police detention for 48 hours, renewable once with the approval of the Public Prosecutor.

8. Between 2007 and 2010 FR monitored the arrest and detention of more than 1,200 foreigners, mostly refugees and asylum seekers on grounds of illegal entry and/or stay. The majority of these were Iraqi and Sudanese nationals. More than a third remain in detention at the time of writing this report, a third have been released and a third deported back to their countries of origin.

9. Only recently have a few refugees challenged their prolonged arbitrary detention. In late 2009, the courts pronounced the continuation of the detention of refugees by the GSO an illegal act, in violation of individual freedom. The rulings ordered the Lebanese State to put an end to this abuse and to ensure the immediate release of the detainees. GSO, after persistent refusal, implemented only one decision, while three other rulings were, by the time of writing this report, still not implemented, and at least one refugee was deported before his court hearing.

10. GSO may issue an administrative order to deport a foreigner only when he/she poses a threat to national security, in which case the GSO can detain the person, with the approval of the General Prosecutor, until the deportation is completed. The duration of detention is unlimited and does not appear to be subject to judicial review.

11. Refugees and asylum seekers, including those holding refugee and/or asylum seeker certificates issued by UNHCR, continue to be deported, thus putting their life at risk. These deportations take the form of “voluntary return”, with refugees required to sign their deportation orders. Considering they are in detention and are not given the right to choose, the refugee’s signature cannot be considered voluntary. This is *de facto refoulement*.

12. Only beginning 2010, FR learnt of the deportation of more than 10 Iraqi refugees recognized by UNHCR. Some of them were awaiting resettlement interviews with the United States Department of Homeland Security, while others had retracted their “voluntary” signature on their deportation orders and resisted removal. The GSO, nonetheless, forced them onto the plane or deported them through the land border with Syria.

13. A 2006 Ministry of Justice Advisory Memorandum reminded the judiciary not to sentence refugees recognized by the UNHCR to deportation based on Art. 3 of the Convention against Torture (CaT). More courts are applying the provision of this Advisory. However, this appears to be applied only when the defendant refugee has the opportunity to have legal counsel to present this argument before a judge.

Administration of justice, impunity, and the rule of law

14. Lebanese laws allow for remedies for those who have experienced arbitrary detention, creating actionable rights and clear civil and criminal penalties, such as imprisonment for officers who detain people illegally or beyond the judicial sentence. Lawyers rarely, if ever, pursue cases of arbitrary detention based on these provisions. However, even when arbitrary detention is challenged before the judiciary or the administration, these challenges are either ignored or do not necessarily result in putting an end to the unlawful detention. In practice, the GSO has acquired wide and discretionary power in handling matters related to foreigners without any judicial overview. This power affects court decisions favorable to refugees, ordering immediate release, for the GSO blatantly ignores them.

15. Recently, we learnt that GSO is using domestic violence shelters and the Safe House run by charity organizations as alternative incommunicado detention places for foreigners, contrary to the principle and *raison d’être* of these shelters and the Safe House.

16. The Lebanese Government is not holding those responsible for human rights violations accountable. As such, it is ignoring its national and international human rights obligations, particularly the respect the rule of law and individual liberty and security.

17. The GSO restricts the detainees' right to assign lawyers and to see their lawyers despite a 2006 memorandum of understanding between the Beirut Bar Association and the GSO regulating the right of legal counsel to access clients inside the unofficial GSO detention center.

Right to seek asylum and to legal identity: Migrants, refugees and asylum-seekers [including undocumented Palestinian refugees (non-ID)]

18. Compared to its size and population, Lebanon hosts a large number of refugees, comprising some 400,000 Palestinian refugees, 200,000 migrant workers, and 40,000 refugees and asylum seekers from countries other than Palestine.

19. With the exception of the 1948 Palestine refugees registered with the Lebanese authorities and UNRWA, the non-Palestinian refugees suffer from the lack of any functioning domestic legal framework guaranteeing their basic right to protection from *refoulement* and to legal recognition and security in accordance with international standards.

20. There are no mechanisms to receive asylum applications at the Lebanese borders and UNHCR has no presence there. This forces most asylum seekers to resort to being smuggled in unsafe conditions into Lebanon. Even those who manage to enter the country legally face difficulties when renewing their visa or trying to obtain a residence permit.

21. There are few legal provisions applicable to refugees and asylum seekers in the Law of 1962 Regulating the Entry, Stay and Exit from Lebanon (Law of Entry and Exit). In reality these are dead letters and were rarely used in Lebanese history. In addition, these provisions fall short of international standards: the refugee definition is narrowed to only a political one and there is no refugee institution, but rather the adjudicating body of asylum claims is an inter-ministerial committee that is created on an *ad hoc* basis.

22. The 2003 Memorandum of Understanding (MoU) signed between UNHCR and the Lebanese state is the only framework regulating the non-Palestinian refugees in Lebanon. According to this MoU, UNHCR is in charge of adjudicating asylum applications and granting refugee status in Lebanon. This MoU continues to fall short of providing adequate protection to refugees and asylum-seekers. Most notably, it stipulates that Lebanon is not an asylum country and that the term "asylum-seeker" is defined as a person seeking asylum to a country other than Lebanon. It does not explicitly recognize the principle of *non-refoulement* but only grants refugees registered with UNHCR the right to a temporary circulation permit (maximum 12 months) during which UNHCR is expected to resettle them to a third country, and they are protected from arrest and prosecution. Moreover, the MoU states that UNHCR is responsible for providing relief and socio-economic assistance to the persons of its concerns. However, the circulation permits were not issued systematically and on time. In recent years, there were attempts to renegotiate the MOU, but apparently the GSO has categorically refused to accommodate.

23. Refugees recognized by UNHCR outside the MoU, such as on the *prima facie* basis, are not granted legal temporary presence in Lebanon. Hence, they are treated as illegal migrants and do not benefit from being "legal" for a short period of time. They need to regularize their status and obtain residency permits on par with other migrants to be able to stay in the country and in order to enjoy any right, and are arrested and detained for illegal entry and stay, and sometimes deported.

24. Undocumented Palestinian refugees - known as "non-ID" - live illegally in Lebanon, as they do not fall under the UNRWA Working definition of 1948 Palestine refugee. They are denied the right to refugee status, and thus all derivative rights (such as the right to movement, security, work, medical care) though they may obtain access to subsistence, education and health services from UNRWA on an *ad hoc* or *de facto* basis.

25. Following negotiations between the GSO, the PLO and the Lebanese-Palestinian Dialogue Committee (LPDC), between August and October 2008 the GSO issued an “Identification Card for Undocumented Palestinians” to the non-IDs. Around 2,200 individuals are said to have submitted applications for this ID. GSO issued only around 875 cards and rejected approximately 300 applications. GSO stopped issuing these IDs without giving an official reason. In September 2009, the Minister of Interior promised to resume the process. Up to the writing of this report, it was not officially and publicly announced that the process has resumed.

26. In all events, the Non-ID IDs are not the appropriate solution for these refugees: firstly, the right to obtain them is not based on legal grounds but rather left to the discretion of the administration and can be overturned any time. Moreover, the terms and conditions for obtaining the ID are not public, thereby making it difficult to ascertain eligibility. Furthermore, card holders do not benefit from clear legal status and rights. According to the LPDC and PLO, they should enjoy freedom of movement, the right to work and the right to register marriages and births. However, the card does not recognize them as “refugees” but as “undocumented persons.” In addition, the card is only valid for one year and is not renewed automatically.

27. Refugee children, like all non-Lebanese children, have the right to access public schools, but face many practical hurdles, such as the lack of free spaces in these schools, the inability to afford private schools, and being prohibited from sitting for public exams without the required residence permits.

28. Whenever a refugee obtains a work permit, it is based on the normal immigration regulations covering work permits issued to migrant workers and not on refugee status with UNHCR. Channels to regularize their status are often too costly or complicated. This drives refugees to work in the informal labor market, subjects them to discrimination and exploitation, and denies them the right to work, to basic health care and education.

Right to Nationality and stateless people in Lebanon

29. Lebanese nationality laws do not fully comply with general international standards both in terms of the basis for nationality (*jus sanguinis* versus *jus soli*) and in terms of respect for the principle of non-discrimination. These laws discriminate against women, between nationals and aliens, and even among aliens. Furthermore, Lebanese nationality laws are vague, allowing for a wide margin of interpretation that leads to conflicting jurisprudence.

30. Most nationality laws in Lebanon were drafted in the first half of the twentieth century and have not been amended to address changing circumstances. On the other hand, several original nationality laws have been nullified by virtue of the nullification of subsequent laws, leading to more ambiguity as to the legal provisions in force. These laws are also incomplete, as they overlook a number of issues, particularly those of a procedural nature.

31. Nationality provisions in Lebanon are governed by Decision № 15, issued in 1925, and its amendments. Contrary to the Convention on the Reduction of Statelessness adopting citizenship by soil as the basis of granting nationality and citizenship by blood as a secondary determinant, Lebanese law stipulates that acquiring Lebanese nationality at birth is primarily based on *jus sanguinis*, and secondarily on citizenship by *jus soli*.

32. The right to grant citizenship through *jus sanguinis* however, is given only to the father. Article 1 of Decision 15 considers Lebanese any person born to a Lebanese father regardless of the place of birth, and this acquisition is automatic upon registration of birth.

33. Nationality may be passed on through the mother only in two exceptional cases: to an illegitimate child acknowledged as such by the mother while still a minor, and to the child of an alien woman who has acquired Lebanese nationality, after the death of the father. The law

therefore gives naturalized alien mothers and their minor children an advantage over Lebanese mothers and their children.

34. Furthermore, the law allows a Lebanese husband to grant his nationality to his alien wife automatically after a year of marriage; however, the same provision is not valid for Lebanese women, whose alien husbands cannot automatically benefit from Lebanese citizenship, but can apply for naturalization and await the government's decision.

35. In addition to the above, Decision 15 states that a child born in Lebanon acquires Lebanese nationality automatically only if there is no evidence that the child has acquired any other nationality, or is born to unknown or unidentified parents or parents of unidentified nationality. However, these provisions are rarely invoked as they are not commonly known, their vagueness leaves room for different interpretations by the courts and the method for proof of conditions is not standardized

36. Citizenship through naturalization is allowed only in three instances: residence in Lebanon for a specified period of time, marriage to a Lebanese woman and residence in Lebanon for a period of time following the marriage, or when a person has provided Lebanon with estimable services. It is not clear if these provisions are currently in effect, as it appears that no individual application for naturalization can be adjudicated at this time. The granting of nationality by naturalization is at the state's discretion and denial is not subject to challenge.

37. A collective naturalization decree was passed in 1994, from which hundreds of thousands of people benefited. It was later challenged by the Maronite League, a sectarian group, that considered the decree a threat to "the demographical balance" of the country. In 2003 the *Conseil d'Etat* ruled that all naturalization files are to be individually reassessed by the Ministry of Interior, leaving the fate of the acquired rights of thousands of people uncertain. By March 2010, the review of the cases was still ongoing.

38. Today, there are hundreds of thousands of stateless persons in Lebanon, who fall under two main categories - *de jure* and *de facto* stateless. Palestinian refugees, Arab Bedouins and Kurds are *de jure* stateless as they are not recognized as citizens by any state, while children born outside legally recognized marriages, persons whose nationality is "under consideration" since the 1960s, and persons unregistered at birth are *de facto* stateless. Legally, the latter are entitled to Lebanese nationality but, for various reasons, they hold neither Lebanese nor any other nationality. *De facto* stateless are estimated at tens of thousands.

III. RECOMMENDATIONS

39. The law of 1962 regulating the entry, residence and exit of foreigners should be amended to exonerate asylum-seekers and refugees from the crimes of illegal entry and presence. A clear and comprehensive legal framework should be established to ensure the rights and protection of refugees and asylum seekers, particularly against arbitrary detention and *refoulement*.

40. Undocumented Palestinian Refugees (Non-IDs) should be granted similar status to Palestinians registered with the Department of Political and Refugee Affairs (DPRA). Meanwhile, the Lebanese authorities should resume the issuance of the identification card to all Non-IDs and take appropriate action to recognize the refugee status of card holders through registration with the DPRA.

41. A public investigation into the practices of prolonged arbitrary detention and *refoulement* should be carried out. Those responsible for these practices should be brought to justice, in order to put an end to the pattern of impunity for human rights violations and to provide remedies to victims.

42. Lebanese laws should be amended in order to establish a consistent and integral body of nationality laws, compliant with international standards, which should include specific rules pertaining to procedures and practices, and lift any discrimination.