



**FRONTIERS RIGHTS**

**رواد الحقوق**

# SEEKING NATIONALITY

THE JUDICIAL ODYSSEY OF  
APPLICANTS

2019

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APPLICANTS

2019

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This study aims to highlight the obstacles faced by stateless individuals when seeking judicial remedy to end their statelessness a matter that leads to the prevalence and exacerbation of this phenomenon from generation to generation and leaving them helpless and doomed to live in the shadow without any rights.

The Association hopes this study would guide the authorities and all stakeholders to consider statelessness as their top priority and to look for appropriate and adequate solutions to combat and end this phenomenon.

**SAMIRA TRAD**  
Research Director

# FOREWORD

Statelessness is a human rights issue. Many are demanding the end of statelessness in Lebanon. Yet, very few are produced comprehensive researches and studies that propose concrete, effective and realistic solutions to end this societal dilemma.

Today, we have a valuable study in our hands. This study comes after many years of advocacy by Frontiers Rights Association that embraced and approached the cause of stateless persons from a comprehensive national perspective, calling upon the relevant authorities to adopt a policy to put an end to statelessness. Despite its continuous advocacy, the policy makers remained indifferent.

The Association considered that the neglect and inaction of the Lebanese state as well as the inadequacy of current nationality and civil record laws and regulations made it imperative and urgent to suggest practical proposals for policy and decision makers to end statelessness in Lebanon. For this, Frontiers Rights conducted in the past years in an effective and true dynamic many seminars, meetings, and conferences with all stakeholders, particularly the relevant authorities and ministries. The tangible and concrete results achieved by Frontiers Ruwad are the biggest proof of its perseverance in its fieldwork with concerned individuals and dialogue and cooperation with local authorities.

The Association's goal is, first and foremost, to strengthen and disseminate legal and social culture and support individuals to register their civil status events and claim their rights within the framework established by the laws and regulations in force, hence opening the horizons of the future with transformations that improve the situation of the stateless vulnerable and marginalized population.

The experience of Ruwad alHoukouk (Frontiers Rights), despite the difficulties it faces, is rich and worth considering. The Association's purposes are: first, to acknowledge the existence of persons in Lebanon who, for one reason or another, are unregistered; second, to ensure recognition of their human and legal rights; and third, to motivate the authorities concerned to provide the protection stateless persons need and to develop relevant legislations and procedures to that end.

By producing this study, the Association aims at presenting the concrete obstacles that faces stateless persons to find solutions to their situation. The study further makes appropriate solutions. The main point the study emphasizes is the importance of preserving human dignity, which, first,

constitutes the center of social order and should become a national priority. Based on that, the study sought to provide a kind of legislative justice that contributes to national integration and gives stateless persons the right to live fully as humans in a society that is more just and respectful for human rights. Perhaps Ruwad alHoukouk's study aspires to bridge the existing gap and contribute to fulfilling the role official bodies who to this date fails to undertake.

The study puts forward a set of paramount suggestions and recommendations, notably, the need to incorporate the concept of "protection from statelessness" in the Constitutional principles and on top of the political agenda of decision makers. It further calls for the need to work on identifying stateless individuals, protecting them, and taking the necessary measures to prevent and put an end to this phenomenon. For this, it calls for the adoption of a universal birth registration system; granting a period of grace allowing the registration of previous events and adopting a developed and simple system for the registration of new civil status events. Further, it recommends promoting access to information and production and dissemination of information related to solutions and procedures accessible by the public. Importantly, the study also suggested developing a mechanism that puts an end to the instability resulting from the problems stemming from the Naturalization Decree of 1994.

Furthermore, the study directed some recommendations to authorities at the judicial level so that they adopt standards that guarantee fair trial and the smooth functioning of proceedings within reasonable time limits, shorten legal procedures as much as possible, and when necessary, provide legal aid, especially since statelessness is most prevalent among poor and marginalized groups.

Briefly, the study puts the Lebanese authorities before their responsibility and duty to put an end to the plight of stateless persons in Lebanon.

I sincerely hope that the high-standard, civilized, and scientific efforts of Ruwad alHoukouk yield the expected results. I also hope that this study leads to the development of a comprehensive plan that culminates in the development of a national policy to end stateless persons' dilemma in Lebanon, which for some, dates back to almost a century.

In conclusion, Ruwad alHoukouk's study, along with all the entailed challenges, is a perfect example of how to tackle the subject of non-registration and statelessness in all its aspects and details, and hence, using it as a guide, is the best basis to achieve the desired goal.

## DR. ABDO YOUNES

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Specialist in Civil Status Issues

# GLOSSARY

- **Authentic Executable Copy of a Court Ruling:** is a copy of the judicial ruling given by the court to the party benefitting from its execution when the ruling is confirmed and enforceable.
- **Birth Attestation:** is a document issued and signed by the doctor or midwife testifying that he/she attended the birth. Doctors and midwives who attend births are obliged to issue this document according to the Code of Medical Ethics under the Chapter Doctor's Duties – Professional Confidentiality.
- **Birth Certificate:** is an official form filled by the father, mother or guardian and certified by the birth attendant [if present], the local Mukhtar of the place of birth, and two witnesses. This certificate is the document used for birth declaration and registration with the Civil Personal Status Registry.
- **Born out of Wedlock:** a child born to unmarried parents is considered “illegitimate” under the sectarian/religious laws that govern marriage in Lebanon.
- **Civil Status Events:** are events that cause a change in the individual's personal status, such as birth, marriage, divorce, death, change of sect and change of gender.
- **Civil Status Lawsuit:** is a lawsuit related to registration, change or rectify a civil event to an existing civil status register. This lawsuit is filed before the single judge who is competent to rule on civil status cases.
- **Civil Status Registry:** is the official civil registry of events. This registry falls under the responsibility of Ministry of Interior • General Directorate of Civil Status. There is a registry in each district (Caza) and a “Civil Status Officer” who is responsible to register in the records all local civil status events and represents the General Directorate of Civil Status at the local level.
- **Committee of Cases:** is a body composed by a number of judges under the Ministry of Justice. It is in charge of defending the State in courts. It concludes contracts with lawyers to represent the state's different ministries, departments and agencies in claims made by them or against them before the courts.



- **Committee of Legislation and Consultations:** is a body made up of judges under the Ministry of Justice. It provides legal opinion and consultation to the different government ministries and departments on legal or administrative procedures and on law interpretation and implementation.
- **Execution Department:** It is a department of the Court of First Instance, headed by a Single Judge in the area of his/her territorial jurisdiction. Its duties include executing the various types of rulings and decisions issued by the courts, unless the law has explicitly assigned this duty to another authority.
- **General Directorate of Personal Status:** it falls under the Ministry of Interior and Municipalities. It handles all matters of civil status, nationality, and population censuses. This includes registering civil status events, keeping records of civil status, providing data on census records and civil status event documents, handling nationality papers, along with their acquisition, loss and restoration, giving permits for acquiring a foreign nationality, preparing monthly and annual civil records statistics.
- **Guardianship Ruling:** this is a ruling given to a person to look after the interest of a child or of an adult who is not capable of looking after his/her own affairs. Shari'a courts issue guardianship ruling for Muslims and religious or civil courts for non-Muslims.
- **Identification (Ta'arif) Attestation:** is an attestation issued by the Mukhtar that indicates that the latter knows the person in question. This attestation mentions the bio data of the concerned individual.
- **Jus Sanguinis:** is a term denoting the biological bond that ties the new-born child to his parents (father or mother) by blood.
- **Jus Soli:** is a term denoting the bond that ties a person to a country as a result of being born in this country.
- **Laissez-Passer Passport for Stateless Persons:** A laissez-passer document is issued by the General Directorate of General Security stating that the nationality of the holder is not Lebanese. Laissez-Passer issued for stateless persons mentions "stateless" in the nationality box that indicate the status of the holder of the passport.
- **Legitimation of Affiliation:** a ruling issued by religious courts, which considers the new-born child a legitimate child of the parents. The ruling is issued in cases of the parent's marriage post of the child's birth, provided that the parents prove that they were capable of marriage during pregnancy and birth.
- **Maktoum al Qayd (Unregistered):** is an unregistered person who meets the conditions stipulated in Decision No. 2825 (issued on 30 August 1924) related to the acquisition of the Lebanese nationality but who is

not registered in the population census of 1932. The descendants also benefit from this regulation. This term is being used also to denote a person born to a Lebanese father or grandfather who has the Lebanese nationality but whose birth was not registered in the father civil personal status records.

- **Marriage Registration:** is the process of registering a marriage at the Civil Status Registry. The marriage registration is completed when a new column for the newly wed man is opened in his family civil status records for his nuclear family. Following this, a copy of the marriage certificate should be sent to the Civil Status Registry of the newly wed woman to write off her from family Civil Status Record.
- **Mukhtar:** A locally elected person mandated to conduct a number of official functions in his/her constituency.
- **Nationality Lawsuit:** is a lawsuit that aims to establish a political linkage between the claimant and the state, to create a new civil personal status record. This lawsuit is filed before the Court of First Instance.
- **Naturalization:** is an administrative discretionary decision (Decree) by which a foreign citizen acquires the Lebanese nationality upon his/her request.
- **Nomadic Tribes:** They are Arab Bedouin clans, with branches in various countries of the Middle East region, who had traditionally wandered between these countries and herded livestock, until the middle of the past century, when most of them settled in the countries of their habitual residence. Resolution No. 800 of 2/2/1922 organized a census for nomadic Arabs and their livestock. The tribe had to give proof of residency in Lebanon for at least 6 months a year during the 1932 census in order to be counted as Lebanese.
- **Non-Contentious Judgment:** is issued by civil judge and does not involve an opposing party nor an applicant and defendant. Such rulings do not have the same power as a res judicata. The judge may also revoke it upon the request of one of the parties if new circumstances arise or new causes are found that were not known at the time of the original judgment, provided that this does not infringe on any rights acquired by other parties in good faith on the basis of the mentioned judgment. It may also be revoked upon the request of an affected third party through an objection.
- **Original Lebanese Nationality:** is the nationality acquired based on grounds of registration of the person or his ascendants in the 1932 population census as Lebanese. The 1932 constitutes today the basis for acquiring the original Lebanese nationality i.e., if a person meets the two conditions of Decision 2825 – being a Turkish subject residency in Lebanon on 30 August 1924, and who acquired the Lebanese nationality according to Decision 1925/25.



- **Ottoman Citizens:** Every person residing in the Ottoman Empire territory that included Lebanon was considered an Ottoman subject pursuant to the Ottoman Nationality Law of 1869, unless the person has a foreign nationality.
- **Prior Approval to Marriage by the General Directorate of General Security (GDGS):** Prior approval by the GDGS is required for the marriage of Lebanese Muslim or Druze men to non-Lebanese women. The related religious courts request the prior approval when the marriage is to be concluded or to be confirmed thereafter.
- **Proof of Kinship:** is a ruling issued by the religious courts that proves the filiation of the child to the parents (or one parent) who have acknowledged their filiation to him/her and/or the presumption of parenthood. Proof of kinship is issued by civil courts in cases of a civil marriage.
- **Proof of Marriage:** is a ruling issued by the religious courts that confirms that the marriage in question is religiously legal. This ruling is requested when the actual marriage is concluded outside the religious court at a previous date.
- **Register of Lebanese Emigrants:** is the register of emigrants of Lebanese origin who were registered as such during the 1932 census.
- **Register of Foreigners:** is a register established under the 1932 census for persons who were in Lebanon and had a foreign nationality when the census was conducted. Today, this register is used only to register foreign women married to Lebanese men before they acquire the Lebanese nationality by marriage.
- **Register of Residents:** is the register for the Lebanese nationals established under the 1932 census for the Lebanese.
- **Right of Option:** under the Peace Treaty of Lausanne (July 1923) between Turkey, France, Britain, Italy, Japan, Greece, Romania and the Sorbo-Croat-Slovene state, under which the Ottoman Empire was dissolved and the citizens who were living in territories under its rule automatically became citizens of the newly established States and, as a result, were no longer considered Turkish citizens. Decision No. 2825 of August 3, 1924, gave individuals above the age of 18 living in Lebanon two years to opt to choose the Turkish nationality or the Lebanese nationality. Similarly, individuals above the age of 18 habitually residing in territories detached

from Turkey with a population majority of different origins could to choose the nationality of the State in which the majority of the population is of their same origin on condition the newly chosen State accept to grant them its nationality. The right of option of the Lebanese nationality remained open until late 1950s.

- **Stateless Person:** is a person who is not considered as a national by any state under the operation of its law. Therefore, a stateless person is someone that today does not hold an effective nationality and is not registered in the Civil Status Records of any country.
- **“Under-Study” Residence Permit (Qaid adDars):** are residency permits given to people who were accounted for in the 1932 census as people “without a nationality” and were given “undefined nationality” residency cards. This residency was replaced in 1962 by “under-study” residency cards. Since 1962, this residency permit is not inclusive to those censured in 1932 but was open to others mainly to ethnic groups who fled their countries in the 40s and 50s onward. “Under Study” means the authorities is studying the nationality of the holders of these permits.
- **1932 Census:** The 1932 Census is a national population census. Based on the result of the census, separate residents’ registers were created [such as Lebanese and non-Lebanese, expatriates, persons without a nationality].



# INTRODUCTION

**According to international human rights laws every person should be entitled to hold a nationality. Yet, today, the phenomenon of statelessness is still there as the number of stateless persons worldwide is estimated to be 12 million today<sup>1</sup>. A stateless person is defined as “a person who is not considered as a national by any state under the operation of its law”<sup>2</sup>.**

Based on international law definition of statelessness, the number of stateless persons in Lebanon is estimated to be more than 50<sup>3</sup>. There is no official statistics as to their exact number. The causes for their statelessness vary between historical and administrative reasons. Some are stateless because they did not register during the population census in 1932, and others is due to a number of reasons including discriminatory related laws. This phenomenon is not confined to old ongoing phenomenon but has rather turned into a recurrent phenomenon which has expanded to include new categories. Today, it is no longer limited to people of Lebanese origins, but includes children of migrant workers or refugees residing illegally in Lebanon.

Despite the vastness of this ongoing phenomenon and the extent of the implications arising therefrom, in terms of the large category of people who are stripped of any protection and rights, it has not yet warranted a place among the Lebanese State’s concerns and has not received the sufficient required political and legislative attention to seek solutions for it. It is even ignored by all societal spectrum [government, parliamentarians, local authorities, political leaders, lawyers, civil servants, social care institutions, and the civil society organizations]. The phenomenon of statelessness did not attract the interest and attention even of the academic and research institutions to research and study

the stateless population from the different angles and the impact of their situation in terms of human rights and development. This is reflected in the fact there is a huge lack of information and studies on the origin, profiles, volume, and the socio-economic conditions of the stateless population in Lebanon, let alone official statistics.

Furthermore, the stateless population lack legal protection. The Lebanese Constitution does not enshrine any protection against statelessness. Lebanon also does not have a legal framework for stateless persons. As such, stateless people are deprived of legal protection due to their lack of legal status, and are thus deprived of political, economic and social rights and protection. They are invisible citizens<sup>4</sup>.

Further, the Lebanese Nationality law<sup>5</sup> and the Registration of civil personal Status law<sup>6</sup> in force today are not comprehensive and cause statelessness for certain categories of the population. For instance, the Nationality Law discriminates against Lebanese women by not giving them the right to pass their nationality to their children – with the exception of single mothers – has negative consequences when the child is born to a stateless father. On the other hand, the Lebanese nationality law contains some provisions that guarantee the prevention of a person to become stateless. This is the case if a child is born in Lebanon to parents who did not acquire and/or unable to acquire another nationality, or to unknown parents<sup>7</sup>, or a child born to a Lebanese parent out of wedlock are by the law Lebanese if recognized by one of the parents<sup>8</sup>. However, these provisions are not implemented automatically by the administration under various unfounded arguments that make these provisions “silent” today.

Further, the Law on Registration of Civil Personal Status issued in early 1950s does not include the registration of personal events of stateless persons. As such they have no records with the Administration. Legally, they are invisible citizens. In addition, this law puts on the individuals the responsibility to carry out the registration of their civil events with the administration. As for the registration of the birth, this should be done within one year from date of birth and if they fail to do so, children become stateless until they recourse to courts to register the children by a court order. There are hundreds of children born to a Lebanese father whose birth were not declared by their parents within the legal period for many reasons and who ended up without a nationality. Some of those children have inherited their statelessness from several stateless generations which makes it harder and more expensive to resolve this issue in courts.

Children born in Lebanon to non-nationals may become stateless too. Today, stateless children born to foreign national are estimated to be in hundreds. The cause of their statelessness is due to the legal provisions that distinguish between legal and illegal residency. Foreigners in irregular residency situation cannot register their civil events with the Lebanese Civil registration (Register of Foreigners), unless they regularize their legal residency status. For the majority of foreign nationals, this procedure is a prerequisite to complete

The only available solution for the vast majority of stateless persons to come out of the “shadow humiliation”, is to resort to the judiciary through lawsuits

their personal status events with their respective embassies.

Today, there is no official policy to handle the issue of statelessness in Lebanon with the aim to prevent it and reduce it. The only available solution for the vast majority of stateless persons to come out of the “shadow and humiliation”, is to resort to the judiciary through lawsuits either for late birth registration before the single civil judge or for the acquisition of the nationality before the civil Court of First Instance.

Naturalization could be used as a solution to end statelessness. In practice, this solution is most of the time used for political reasons rather than to end

statelessness. For example, the collective naturalization decree of 1994 naturalized a number of stateless persons but did not include all the stateless population. Nevertheless, naturalization is not a right but rather the nationality is granted on discretionary basis.

### Purpose of the Study

This study aims, first of all, to analyze the extent to which the recourse to the judiciary as a sole solution today is easily available to each and every stateless person who meet the conditions for acquiring the nationality by law. The analysis focuses on the social and legal profiles of the different categories of stateless persons and the difficulties and obstacles they faced in attempting to end their statelessness through resorting to judicial proceedings. It details the difficult course before and after the filing of the lawsuits starting with the building of the case, during the court proceedings, and after the conclusion of the lawsuit. The study also aims to show the extent to which Lebanese laws are compatible with relevant international human rights standards.

### Methodology of the Study

The study adopts mixed methods – quantitative and qualitative. The study is mainly based on review and analysis of a sample of 76 lawsuits (45 late birth registration and 31 nationality) represented before the competent courts by attorneys assigned by the Ruwad alHoukuk between 2014 and

2018 and of 88 judicial decisions issued by the two Court of Cassation personal status and nationality chambers between 2014 and 2017. Further, the analysis included the review of randomly selected from the 3142 individual stateless followed by the Association. The presentation of actual problems, especially those related to non-judicial costs, is based on the testimonies and statements retrieved from these cases. The analysis of the 88 Cassation court decision aimed to show the jurisprudence trends related to late birth registration and acquisition of the nationality lawsuits. However, the majority of these decisions turned out to be related to the naturalization decree of 1994. The analysis of these will be used in a separate publication related to the Naturalization Decree No. 5247/1994.

By the time of writing this study, the majority of the court proceeding of these lawsuits are either at their final stages awaiting court decisions and/or obtained decision and some of them are being in the execution process and some have been executed and the claimants obtained the Lebanese nationality.

The draft report of the study was discussed with focus experts group composed of attorneys, state attorneys, academics, the Working Group on Statelessness representative<sup>9</sup>. This process aimed to obtain feedback and validate the analysis and findings before publication.

The study is divided into three parts. Part I describes the causes and profiles of the stateless population in Lebanon, the available legal solutions to end their statelessness. Part II focuses on the analysis of the court proceedings, and Part III describes the obstacles stateless persons encounter at all levels in their plight to end their statelessness. The study ends with conclusion and recommendations.

### Main Findings of the Study

The study concludes that stateless individuals in Lebanon face a number of obstacles at different levels, whether legal, procedural, or practical that limit their ability to take practical steps towards putting an end to their statelessness through the judiciary. These obstacles stretch from the preparation and building the legal file to filing the lawsuit and continue all throughout the stages of the court proceedings up until the adjudication and the execution. The present study concludes that in theory access to justice is available to stateless persons to put an end of their statelessness but in practice it is a kind of deadlock.



PART 1

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**LEBANON HOST OF  
A LARGE STATELESS  
POPULATION**

## CAUSES OF STATELESSNESS IN LEBANON

Before the creation of Greater Lebanon and the establishment of the Lebanese nationality in 1924,<sup>10</sup> the majority of the population living in Lebanon were considered Ottoman citizens. In 1932, a population census determined who is Lebanese, or is a foreigner, or “without a nationality”. According to the 1932 Population Census Decree considered to be Lebanese citizen any person who met two conditions: 1] if is an Ottoman citizen; and 2] Lebanon is his/her habitual residency in 30 August 1924.<sup>11</sup> The majority of the stateless population in Lebanon emerged with the census operation as persons “without a nationality”. Yet, not all stateless persons today are the children or grandchildren of persons who were registered “without nationality” in 1932. Others are children of Lebanese fathers but their birth is not registered.

For practical reasons, the causes of statelessness in Lebanon are divided in this study into two main broad categories: 1] administrative, and 2] historical. The administrative one makes up to 41% of the sample and consists mainly of children born to registered fathers or grandfathers whose births are not registered with the relevant competent authorities. The “administrative” stateless persons also are divided into two sub-categories: Lebanese and non-Lebanese. The historical category makes up to 59% of the sample and the majority are individuals who have inherited their statelessness from their ancestors who either never had a nationality or lost it and have links with Lebanon.<sup>12</sup>

Up until the end of 2018, the nominal statistics database of Frontiers Rights Association included the names of 4891 stateless individuals. The majority of whom have no personal status records in the registers of the state, with the exception of those registered as Qaid adDars “under-study”. This study is based on analysing a population sample of 3142 completed individual stateless files.

Table 1  
**Distribution of Origin of Statelessness in Lebanon**

Category	Number	Percentage
Administrative	1290	41.06%
Historical	1852	58.94%
<b>Total Study Sample</b>	<b>3142</b>	<b>100%</b>

General Features  
Of Stateless  
Individuals In  
Lebanon



■ Administrative  
■ Historical



## Gender Distribution

The percentage of male stateless individuals slightly exceeds the percentage of female stateless individuals.

Table 2  
**Sample Gender Distribution**

Gender	Number	Percentage
Female	1433	45.61%
Male	1709	54.39%
<b>Total</b>	<b>3142</b>	<b>100%</b>

## Geographical Distribution

Statelessness is prevalent in all Lebanese governorates though in varying proportions. However, more than half of the stateless families [around 59%] are distributed among three governorates: Akkar, Beqaa, and Baalbek-Hermel governorate.

Table 3  
**Geographical Distribution by Governorate**

Governorate	Number	Percentage
Akkar	973	30.97%
Beqaa	519	16.52%
Baalbek – Hermel	368	11.72%
Mount Lebanon	353	11.23%
North Lebanon	313	9.96%
South Lebanon	280	8.91%
Beirut	181	5.76%
Nabatiyeh	155	4.93%
<b>Total</b>	<b>3142</b>	<b>100%</b>

## Sectarian Affiliation

The vast majority of stateless persons belongs to the Sunni sect followed by the Shi'ites and Alawites. Christian communities constitute a relatively small percentage followed by the Druze.

Table 4  
**Sectarian Distribution**

Sect	Number	Percentage
Sunni	2253	71.71%
Shi'ite and Alawite	324	10.31%
Christian	104	3.33%
Druze	46	1.46%
No answer	415	13.21%
<b>Total</b>	<b>3142</b>	<b>100%</b>

The sectarian distribution reflects what has been elaborated regarding the prevalence of historical reasons on the factors causing statelessness in Lebanon. As shown earlier, the highest concentration of stateless individuals lies in the Northern and Eastern borders where Sunni communities are predominant and are known to have not acquired the nationality [because most were nomadic tribes].

## Age Group

It has been noticed that the proportion of adults who are stateless exceeds the proportion of minors by more than two-thirds, and that the youth [18-30 years] constitute the largest proportion. If we add all individuals from the age of one year to the age of thirty years, they will constitute 74%. This shows that the phenomenon of statelessness persists from generation to generation and has exacerbated during the last three decades.

Table 5  
**Distribution by Age Group**

Age Group	Number	Percentage
From 1 - 5 years	125	3.98%
From 6 - 10 years	449	14.29%
From 11 - 17 years	623	19.83%
From 18 - 30 years	1119	35.61%
From 31 - 45 years	557	17.73%
From 46 - 60 years	215	6.84%
Above 60 years	54	1.72%
No answer	125	3.98%
<b>Total</b>	<b>3142</b>	<b>100%</b>

## Marital Status

Stateless individuals who are single and who have never been married constitute the largest proportion compared to those who are or have been married.

The vast majority of stateless persons belongs to the Sunni sect followed by the Shi'ites and Alawites. Christian communities constitute a relatively small percentage followed by the Druze.

Table 6  
**Distribution by Marital Status**

Marital Status	Number	Percentage
Single	2429	77.31%
Married	671	21.36%
Widow/Divorced	32	1.02%
No answer	10	0.32%
<b>Total</b>	<b>3124</b>	<b>100%</b>

## Nationality of the Spouse

The majority of the stateless individuals who are or have been married [703 individuals] have spouses who hold an original Lebanese nationality or who became Lebanese by naturalization, and around.

Table 7  
**Distribution by Marital Status**

Nationality of the Spouse	Number	Percentage
Lebanese	370	52.63%
Stateless	186	25.03%
Syrian	63	8.96%
Naturalized Lebanese	59	8.39%
No answer	16	2.27%
Another [foreign] nationality	10	1.42%
Under-study [Qayd adDars]	7	0.99%
Palestinian	2	0.31%
<b>Total</b>	<b>703</b>	<b>100%</b>



### Country of Birth

The vast majority of stateless individuals were born in Lebanon and have been permanently residing on Lebanese territories

Table 8  
**Distribution by Country of Birth**

Country of Birth	Number	Percentage
Lebanon	3065	97.55%
Syria	56	1.78%
Other	21	0.67%
<b>Total</b>	<b>3142</b>	<b>100%</b>

### Nationality of the Mother

More than half of the individuals in the sample are born to a Lebanese mother or Lebanese by naturalization, and more than one-third are born to a mother who is stateless but who has Lebanese parents.

Table 9  
**Distribution by the Nationality of the Mother**

Nationality of the Mother	Number	Percentage
Lebanese	1348	42.90%
Unregistered (Maktoumat alQayd)	1043	33.20%
Lebanese by naturalization	424	13.49%
Syrian	227	7.22%
Other foreign nationality	46	1.46%
Under-study nationality	29	0.92%
Palestinian	13	0.41%
No answer	12	0.38%
<b>Total</b>	<b>3142</b>	<b>100%</b>

## HISTORICAL AND ADMINISTRATIVE CAUSES OF STATELESSNESS

### ADMINISTRATIVE CAUSES

#### Stateless children born to Lebanese parents

There are children born to Lebanese registered parents or grandparents but their birth or the birth of their fathers is not registered. In Lebanon, they are known as “Maktoumi alQayd”. The statelessness of these children can be ended by submitted late birth registration lawsuits before the Single Judge requesting a ruling to register birth in the parents’ personal status civil records

The reasons parents fail to register the birth of their new-born is due to a multiple and different reasons. For example:

- Parents fail to register the birth of their new born baby within the legal one-year delay as they may not be aware of this legal provision.
- Some parents are unaware of the personal status civil registration of events procedures. They often rely on the Mukhtar (local representative) to handle the procedures to discover later that latter did not complete the process on time, or did not do it at all.
- Others think that the fee for birth registration is unaffordable. This is sometimes due to the “unofficial exaggerated fees” demanded by the Mukhtar or the civil servant’s clerk to perform the registration.
- Some parents are content to be married religiously and do not register their marriage with the civil administration. They do not know that registration of their marriage with the civil administration is a prerequisite to register the birth of their children.
- Some children are born to religiously mixed married couple and such marriages are not valid marriages such as a Christian married man converts to Islam and marries a Muslim woman while still married to his first Christian wife. The second marriage cannot be registered as it is invalid according to the Christian religion that prohibits polygyny.
- Other children are born to a Lebanese man married religiously to a stateless woman and their marriage is not registered. Such marriages cannot today be registered automatically with the competent civil authorities and the couple are not aware that they can submit a lawsuit against the State and obtain a court decision confirming their

In Lebanon “Maktoumi alQayd” are children born to Lebanese registered parents or grandparents but their birth or the birth of their fathers is not registered.

marriages. The court’s decision is binding on the administration to execute it. The gender discrimination is obvious here. Considering that today only the Lebanese male gives his Lebanese nationality to his children, such marriages can be registered by court order, a Lebanese woman married to a stateless man cannot register her marriage neither administratively nor through the judiciary. The pseudo argument given by the officials is that the State fears that the court confirmation of her marriage to a stateless person her children may acquire the Lebanese nationality on jus soli grounds.

- Many stateless children were minors when their parents were naturalized as single persons while they were married.

- Some stateless children are born out of wedlock to a Lebanese parent. Many parents do not know that they can register automatically the birth of their new born child with the Administration on the condition that one parent acknowledges affiliation. Further, some parents are aware but refuse to acknowledge the new born child from fear of social “scandal” and from being out-casted from their family.

- Children can also become stateless when born out of unregistered marriage between a Muslim Lebanese man and a foreign woman living in Lebanon without legal residency permits.<sup>13</sup> To register such marriages with the civil administration legal residency<sup>14</sup> and a prior approval of the Directorate General of the General Security to marry a foreign woman are prerequisites.<sup>15</sup> In practice, the prior approval of the General Security is being applied unlawfully to Christian men married to foreign women. While these rules and regulations are known to the religious authorities, Muslim sheikhs are concluding such marriages with complete disregard to these rules. As such, the concerned persons find themselves in more complex and complicated path to later validate and register their marriages, and the birth of their children thereafter, among them, is the wife’s high and unaffordable residency regularization penalty, especially if the wife has been residing illegally for many years.<sup>16</sup> Today, the Directorate General

of the General Security is reducing the cost of the regularization for humanitarian reasons, if the applicant submits a plea requesting the reduction of the penalty, is providing “post marriage” prior approval for the marriage to facilitate the completion of the proof of marriage before the religious courts and later with the civil administration.

### Stateless children born to non-Lebanese parents

- A number of children born in Lebanon to foreign parents whose marriage is not registered with their country-of-origin authorities either because they have broken all ties with their country, or from evading the enlistment of their children in military service.<sup>17</sup>

- There are also stateless children born out of temporary cohabitation/ marriages that resulted with the birth of a child and the man abandons the woman and children without registering the marriage or the births of his children in his country.

- There are also certain cases of stateless children born to foreign parents resulting from the failure to register them in the Register of Foreigners due to their parents’ illegal residency in Lebanon – these include female domestic workers and foreign fathers. This ultimately leads to their inability to acquire the nationality of their country-of-origin, in accordance with the provisions of the Private International Law that requires registering a birth in the country where it occurred and report it to the competent foreign authorities, as a first step towards granting the newborn the nationality of his country.

What is of great concern is the category of foreign women – mainly female domestic workers – who have unregistered marriages and/or unregistered children in Lebanon. These women are deported as a result of their illegal residency, which leads to complications and negatively affects the process of registering the children left behind in Lebanon.





## HISTORICAL CAUSES

There are hundreds of thousands historical stateless persons who have originally and historically inherited their statelessness from their ancestors who were themselves either stateless or denied country of residency nationality. They are completely “invisible” citizens. They have no civil records with the Lebanese authorities. These do not have civil records with the Lebanese authorities. The majority lives in remote rural underprivileged areas, particularly in border areas with Syria, such as Wadi Khaled and Eastern Beqaa. It is worth noting that 61% of the total number of people in the historical category [1852 people in our sample] were born to a mother who holds a nationality but cannot register her children under her civil record. The majority [54.6%] were born to a Lebanese mother and [6.4%] were born to a mother who holds a foreign nationality mainly Syrian, few Gulf countries, and Jordanian nationalities. This category is heterogeneous, in terms of origin and historical reasons for statelessness. As such, they will be grouped below on basis of common denominator of origin.

### Stateless of Ottoman origin

This group is mainly composed of children and grandchildren of ancestor who were Ottoman citizens living in Lebanon before the creation of the modern state of Greater Lebanon in 1920. They are stateless because their ancestors failed to register in the 1932 population census and/or to opt for a specific of one of countries that were created in the region after the fall of the Ottoman Empire. Hence, they lost the opportunity to be obtain the Lebanese nationality. The reasons for the non-registration in the census is not completely known, but it appears that there are a number of factors including failure of the census enumerators to reach them either intentionally or due to the lack of a final demarcation of the borders of the State of Lebanon that led to confusion as which area belong to Lebanon, Syria or Palestine, and lack of an actual place of habitual residence in Lebanon; or due to their ignorance of the importance of the census and wrong believe that the aim of the census is to enlist them in military service, or to avoid being subject to taxes; or for ideological and political reasons mainly their refusal to accept the breakdown of the Grand Syria and to belong to either of the newly created States.

It is worth noting that 61% of the total number of people in the historical category (1852 people in our sample) were born to a mother who holds a nationality but cannot register her children under her civil record.

The second group are Bedouins nomads who travelled regularly and frequently freely between Lebanon and neighboring countries. They too did not register in the census or opted for the nationality of another newly created country in the region. The reasons are not clearly known, but it appears that many of them could not meet the legal provisions of proving habitual residency in Lebanon for more than 6 months during the year.<sup>18</sup> A number of them were later register with the Lebanese General Security and obtained Qayd adDars residency permits in early 1960s.

The third group includes refugees who came to Lebanon before 30 August 1924 fleeing the persecution from countries newly separated from the Ottoman Empire - mainly Armenians and Kurds from Turkey, Assyrians and Kaldenians from Syria and Iraq. The reason for the statelessness of the children and grandchildren of this group is similar to first group. Their ancestors did not register in the 1932 population census.<sup>19</sup>

The fourth group are children and grandchildren of refugees who came to Lebanon after 1924. The ancestors of these children belonged to minorities that either never had a nationality in their country of origin/ residence or were stripped of their nationality for ethnic, sectarian, or political reasons. They did register in the census. However, they did not meet the legal provisions to register as Lebanese. They were considered as stateless foreigners and were registered under the category of stateless “without a nationality”.

Since the creation of Greater Lebanon, the country saw several waves of refugee influx of minority groups from neighboring countries or due to the complete disappearance of their country. The biggest waves of refugees were from Palestine who were forcibly displaced by the Israeli occupation in 1948, and the residents of the Lebanese Southern villages known as the Seven Villages.<sup>20</sup>

### Stateless of non-Ottoman origin

Another group of stateless consists of people of non-Ottoman origins who were in Lebanon without any identified nationality, either because they have never had such a nationality, or they were stripped of their nationality, or they had cut ties with their countries of origin for generations and lost their nationality as a result. These were registered in the census as “foreigners without nationality”.



PART 2

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**ACCESSING THE  
JUDICIARY TO END  
STATELESSNESS**

**Today, to put an end to their statelessness, stateless persons, whether their statelessness is due to historical reasons or non-registration have to resort to the judiciary to obtain confirmation of their Lebanese nationality or to be registered in their parents' civil status records.**

In this chapter, we present the analysis of 76 lawsuits, 44 Late Birth Registration [we will be using from here onward the term “registration” to denote “late birth registration”) cases, and 32 Nationality cases. Among them 14 strategic litigation cases. These lawsuits were submitted before different regional courts. The attorneys-at-law were assigned by FRH between 2014-2018.<sup>21</sup>

The registration lawsuits are related to birth registrations, marital status rectification, and acquisition of nationality by extension from a naturalized father whereas nationality lawsuits will include the different legal grounds for considering a person to be Lebanese by law.

The analysis was complemented by the review and analysis of 88 Court of Cassation decisions issued during the same period related to both late birth and nationality cases. The aim is to better understand the jurisprudence trend regarding these lawsuits. With the exception 7 lawsuits that obtain court decisions, 4 of them were executed and the 3 were still in the process to be executed, the remaining lawsuits were still on-going at first instance courts by the date of writing this study.

The analysis of these lawsuits covers the legal grounds of civil status lawsuits, along giving samples of these lawsuits that show the general features of cases and highlights some social and personal reasons that prevent people from working towards ending their statelessness or the statelessness of their children.



Table 12?? or 10?  
**Distribution of the Courts and Type of lawsuits**

Court Region	Single Judge/Birth Registration	Court of 1 <sup>st</sup> Instance/ Nationality	Total
Tripoli	10	12*	22
Halba	22		22
Beirut		15	15
Qoubaiyat	6		6
Sidon	2	2	4
Zahle	1**	2	3
Northern Metn	1		1
Baabda		1	1
Baakline	1		1
Jib Jennine	1		1
<b>Total</b>	<b>44</b>	<b>32</b>	<b>76</b>

\* One of the 12 lawsuits is a late birth registration but filed before the court of 1st instance.

\*\* One of the lawsuits is a nationality case but filed before the Single Judge.

Table 11  
**Age and Gender Distribution of the Beneficiaries of the Lawsuits**

Age Group	Female	Male	Total
Minors	70	86	156
Adults	40	75	115
<b>Total</b>	<b>110</b>	<b>161</b>	<b>271</b>

Table 13  
**Legal Grounds of Lawsuits Assigned by Ruwad alHoukoug**

Legal Ground	Number of Lawsuits
Article 1 Paragraph 1 of Decision No. 15/1925 and Article 21 of Decree No. 8837/1932	28
Article 1 Paragraph 1 of Decision No. 15/1925	12
Article 1 Paragraph 2 of Decision No. 15/1925	6
Article 1 Paragraph 3 of Decision No. 15/1925	6
Article 1 Paragraphs 2 and 3 of Decision No. 15/1925	11
Article 5 of Decision No. 15/1925	3
Article 2 of Decision No. 15/1925	3
Article 1 Paragraphs 2 and 3 of Decision No. 15/1925 and Article 1 of Decision No. 2825/1924	2
Article 1 Paragraphs 2 and 3 of Decision No. 15/1925 and Article 12 of Decree No. 8837/1932	2
Article 4 of Decision No. 15/1925	2
Article 1 Paragraphs 2 and 3 of Decision No. 15/1925 and Article 4 of Decision No 15/1925	1
<b>Total</b>	<b>76</b>

## LATE BIRTH REGISTRATION LAWSUITS

Late birth registration consists of filing civil status lawsuit before the single judge. The aim is to register a child born to a Lebanese father in case the birth was not administratively declared within the legal time-limit of one year from the date of birth. Frequently, such lawsuits are coupled with a petition to rectify the marital status of the Lebanese father or grandfather in case he was married but did not register his marriage at the time, or a petition to rectify the marital status of the father and adding a marriage mark in case he was married to an unregistered woman [Maktoumat alQayd] because the administration does not register such marriages nowadays. Civil status and registration lawsuits also include lawsuits filed in order to register a child born out of wedlock whose Lebanese father or mother acknowledges filiation or paternity while the child is still a minor in case no one declared his/her birth administratively within the one-year time limit. If none of the parents acknowledged filiation while the child is a minor, he/she can obtain, once he/she becomes an adult, a judicial acknowledgment of filiation and become registered within the records of the father he/she proves his kinship to. Similarly, foundlings [children born to unknown parents] born in Lebanon can file a registration lawsuit; however, the prevailing practice in courts nowadays is to consider such cases as nationality lawsuits if the child was not administratively registered within 30 days after being found.

### Jus Sanguini – Late Birth Registration Lawsuits

Article 1 [1] and Article 2 of decision 15/1925 are the two legal grounds for Late birth registration lawsuits. These lawsuits are based on jus sanguinis ground. The law in force states birth registration with the civil administration should be declared within the first year from the date of the birth.<sup>22</sup> After one year, the parents must resort to court [Single Judge]<sup>23</sup> to obtain registration decision.

Late Birth registration lawsuits are non-contentious. These lawsuits do not question the nationality of the father of the child as the latter is already established.<sup>24</sup> The jurisprudence confirm the non-contentious nature of these lawsuits for it considers “civil status” lawsuits are related to the registration of events such as birth, marriage, divorce. However, a third party may intercept if affected by the judgement within 8 days of the date of the notification of the judgement or during the execution procedures. The court may also decide on its own to bring a third party in the lawsuit, if it sees it necessary to safeguard the rights of a third party.<sup>25</sup>

Below, a brief description of the profile and legal grounds of a number of registration lawsuits that are related to: 1) children born within a marriage to a Lebanese father or affiliated to a Lebanese grandfather; 2) children born out of wedlock of Lebanese parents.

### A. Jus Sanguinis Lawsuits - Children born to a Lebanese father - Article 1 [1] of decision 15/1925

Under this legal ground 40 lawsuits were filed. The cases vary between a) registration of children born to a Lebanese father upon the child’s birth, b) children born to unregistered fathers and who acquired the Lebanese nationality by judicial ruling after the child’s birth, and c) children of unregistered fathers [Maktoum alQayd] who in turn have Lebanese fathers. Twenty-eight cases included request rectification of parents’ marital status as this is a prerequisite to register the birth of their children. These concern mainly the marriage of a Lebanese man with an unregistered woman for such marriages cannot be registered automatically with the civil administration.<sup>26</sup>

In general, these cases must provide evidence of parents’ marriage registration, the confirmation of the Lebanese nationality of the father, and the legal filiation of the child to his Lebanese father or grandfather.

There are some children born from a second marriage to parents of different religions, one of which prohibits polygyny. They resort to the courts to request their registration as legitimate children provided that one parents can prove that the marriage was concluded in good faith i.e., not knowing the existence of a serious impediment.

Children born before the father acquired the nationality by judicial ruling may file a registration lawsuit ex post facto of the father’s registration ruling.<sup>27</sup> The same applies to children born to an unregistered father affiliated to a Lebanese father. In this case, they have to proof the father affiliation to a Lebanese grandfather and request marital status rectification for the grandfather prior to registering the unregistered father under the grandfather’s record. This will be followed by rectifying the father’s marital status and the registration of their children.

#### • MANAL AND FADI ARE UNREGISTERED.

They were born to a Lebanese father and a stateless mother. Their parents were married by a sheik. Considering that the wife is stateless, it was not possible to register the marriage in the husband civil record. The wife was naturalized in 1994. However, due to family dispute, the husband did not register his religious marriages despite the children continuously asking to be registered. The father finally obtained proof of marriage from the religious court in 2014. Then, the children with their mother filed a lawsuit against their father requesting their registration. They did not know where and how to file the lawsuits. During that period, their mother passing away in 2015. They submitted the lawsuit before the Public Prosecution's Office in their region to discover later that the latter had not taken any action and the complaint was still in his incoming mail. The death of their father in 2017 prevented the children from following their case with the Public Prosecution's Office. FRH assigned an attorney to legally represent them in their judicial proceedings given the complexity of the procedures.

#### • OMAR WAS BORN TO A LEBANESE FATHER MARRIED RELIGIOUSLY TO A SYRIAN WOMAN.

The marriage was not registered in the husband's civil records as the wife did not have the required identity documentation to complete the marriage registration procedures. The wife was of Lebanese origins. After her marriage, she acquired the Lebanese nationality by a judicial ruling and registered their marriage. However, due to family disputes, Omar's birth registration was neglected until many years later when his father filed a lawsuit to register his birth and obtained a positive ruling. The father obtained from the court the authentic copy of the executable decision. During this period, Omar's mother left her home and disappeared. In revenge, the father refused to execute the court ruling. FRH assigned an attorney to represent Omar to obtain copy of the executable decision and executed the decision.

#### • KARIM WAS STATELESS DESPITE BORN TO A LEBANESE FATHER AND A STATELESS WOMAN.

Karim is married and has 11 children who are all unregistered. Karim obtained a judicial ruling rectifying his father's marital status from single to married and to have his birth registered under his father's record. Later, Karim asked the Mukhtar in his area and an attorney to help him to file a lawsuit to register his children but he stopped when both asked for a large amount of money, and was told that he has to bear a huge amount for the DNA tests. Given his dire financial situation, FRH assigned an attorney to file a late birth registration lawsuit for the children, ex post facto of Karim's registration ruling.

#### B. Jus Sanguinis Lawsuits - Children born out of wedlock - Article 2 of Decision 15/1925

The 5 lawsuits involve children born out of wedlock of Lebanese parents. By the law, these children are considered Lebanese by Law. However, to be registered administratively, or later judicially if the birth was not declared during the first year of the date of the birth, one or both of parents [father or mother] must formally acknowledge affiliation while they are still minors.<sup>28</sup> If none of the parents acknowledges the child, the latter, after reaching the age of majority, could file late birth registration lawsuit against his mother or father if he/she can prove paternal or maternal biological affiliation. In case the child did not obtain the consensual acknowledgement of affiliation and a favorable judicial decision for lack of proof of affiliation, and was born in Lebanon, he may file a lawsuit for the acquisition of the Lebanese nationality on jus soli ground. This was the position of certain Courts of First Instance, which considered a child unacknowledged by either of his parents to be a child of unknown parents [foundling], even though the parents might be known.<sup>29</sup>

Women who acknowledge the affiliation of their child born out of wedlock is treated differently than in the case the men during the official administrative registration procedures. Although, the birth certification is registered as declared with the civil registrar, a matter that safeguard the right to full registration even after the one-year delay, the authorities conduct investigations and interrogations about the women, their personal relationships. News of the birth out of wedlock spreads in the woman's environment. In addition, the process takes a long period of time and requires the mother to go to different departments more than once, such as the Civil Status Officer, the chief of the Civil Status Department and the Director General of Civil Status who shall have the final decision on whether to register the child or not.<sup>30</sup> This treatment scares many single mothers who do not register the child from fear of the social "scandal. The authorities justify this to ensure that the women are not trying to give their Lebanese nationality to children born to foreign fathers as way to give their children the Lebanese nationality by the law.

• **KHALIL WAS BORN TO A LEBANESE DIVORCEE MOTHER AND AN UNKNOWN FATHER.**

Khalil was born 4 years after the mother obtained her divorced from the religious court. The divorce was not executed in the civil status records. Nevertheless, to avoid “social shame”, she gave the hospital where she gave birth Khalil the name of her ex-husband. The hospital issued his birth notification mentioning the ex-husband name as his father. The Ministry of Social Affairs referred Khalil to FRH who assigned an attorney to represent him in late birth registration lawsuit requesting his registration under his mother’s record, after she formally acknowledged his affiliation before the Notary.



• **FOUAD WAS BORN OUT OF WEDLOCK.**

His Lebanese mother was raped by an unknown man when she was 12 years old. Her family discovered she was pregnant several months later and was not possible to abort the child. Her family did not bring lawsuit against the rapist for fear of ruining their daughter’s reputation. When Fouad was born, the family informed their extended family and their neighborhood that his mother got married and divorced. Fouad was raised by his mother’s parents. He only had an identification attestation issued by the village’s Mukhtar who knew the truth. Fouad’s mother approached FRH requesting assistance to register Fouad. She formally acknowledged his affiliation. FRH assigned an attorney to represent her in a late birth registration lawsuit to register a child born out of wedlock under the Lebanese mother’s record. The judge issued a positive decision in less than a year. Fouad today is registered under his mother’s family record and holds the Lebanese nationality.

• **HALA WAS BORN OUT OF WEDLOCK.**

Her Lebanese mother was raped by an unknown man. The mother did not declare Hala’s birth, out of fear of people’s opinion. She even did not obtain Hala’s birth certificate from the hospital. When Hala became 30 years old, she approached FRH who obtained the mother’s acknowledgement of affiliation and assigned an attorney to filed a lawsuit to register her birth under her mother’s civil record.

### NATIONALITY LAWSUITS

The legislator considered the issue of statelessness when drafting the Lebanese Nationality Law and the Census Decree of 1932. The aim was to set legal provisions that would prevent children from becoming stateless.

Stateless persons that meet the legal conditions have to file a nationality lawsuit before the Court of First Instance. Such lawsuits aim to create a political link between the state and the individual who requests being considered Lebanese by law. This applies to children born in Lebanon with no evidence or proof showing that they have acquired, by filiation, upon birth a foreign nationality, children born in Lebanon of parents with unknown nationalities, and any individual who can prove his/her Ottoman roots and the residency of his ancestors in Lebanon on 30 August, 1924. Such lawsuits are filed against the state. Moreover, an unregistered woman [Maktoumat alQayd] married to a Lebanese is entitled to acquire the Lebanese nationality by marriage one year after the execution of the rectification of the husband’s marital status, as is the case for foreign woman. However, unlike the latter, an unregistered woman should file a judicial lawsuit by virtue of which she may acquire the nationality.

Nationality lawsuits fall under Article, clauses [2] & [3] of the Lebanese nationality law no.15/1925. These legal provisions stipulate important safeguards against statelessness on jus soli grounds.

Article 1(2) considers to be Lebanese any person born on the Lebanese territory and proven to not have acquired a foreign nationality upon birth by affiliation.

Article 1 (3) considers to be Lebanese any person born on the territory of the State of Greater Lebanon from unknown parents [foundlings] or parents of unknown nationality.

To acquire the Lebanese nationality under these provisions, three conditions must be met: a) born on the Lebanese soil; b) proven did not acquire another nationality by affiliation on birth; or c) born to unidentified nationality or unknown parents. In some cases, these provisions are invoked in conjunction with Article 12 of Decree 8837/1932 related to the 1932 population census [Bedouin origin] or with Article 1 of Decision No. 2825 dated 30/8/1924 related to the emergence of the Lebanese nationality.

In principle, these Jus Solis provisions should be applied administratively. The law does not specify any exception. Further, the Registration of Civil Personal Status Events law does not stipulate any exception for any birth registration regardless if children are born to Lebanese fathers, or born in Lebanon to foreign parents or born to parents who do not have a nationality.

Indeed, up until 1966, the birth of children that fall under Article 1, para 2 & 3 were administratively registered. This is justified on the basis that the administration is implementing the Court of Cassation Decision no. 52 issued in 1966. The decision related to Article 3 of Legislative Decree no. 353 of 16/3/1943. In this decision, the court separated the procedures and competent authorities between registration requests in the census and declaration of personal status events. The former should be submitted to the competent court, which shall issue a decision to proceed; and the latter the administrative authorities in charge shall record them directly without the need for a judicial decision. Hence, the Cassation Court distinguished between the registration of a new civil status record in the census and declarations of personal status events in existing records.<sup>31</sup> This decision aimed to set a specific time limit for people who had not presented themselves for registration in the census in 1932. In reality, in this decision, the court addressed the legal vacuum associated and was set as the rule from that date onward. This policy was confirmed by the Acting Director of the Civil Status Directorate General of Civil Status to FRH in 2013.<sup>32</sup> It is our opinion that the Court's decision contradicts the legal provisions that state clearly that persons that fall under Article 1 (2) & (3) are Lebanese by law and hence should automatically be registered administratively. Further and ironically, the Civil Personal Status authorities do register a new civil personal status record for naturalized persons and for foundlings!

### Jus Soli Lawsuits on Grounds of Article 1 (2) of Decision 15/1925

Children born to stateless parents fall under Article 1(2) on ground that they are born in Lebanon and did not acquire any nationality by affiliation. These cases face difficulties to build their case to file a nationality lawsuit as the majority lack prove of the required legal conditions. The lawsuits filed by the attorney-at-law assigned by FRH particularly highlight gender discrimination in the nationality law such as the case of children born in Lebanon to Lebanese or Syrian mothers who are unable to transfer their nationality to their children, particularly if they are married to unregistered men (Maktoum alQayd).

• RAMI & HADI WERE BORN IN 1991 AND 1996 RESPECTIVELY. THEY ARE BORN TO A LEBANESE MOTHER AND A MAKTOUM ALQAYD FATHER.

They married at the religious court. The mother did not register her marriage in her personal status record.

Their father is an illegitimate child (born out of rape). For unknown reason, his mother did not register him under her personal status record. In 1980, he filed a lawsuit to be registered under his mother's record. He lost the case at the Cassation level. The Court rejected the case on jurisdictional procedural grounds for the lawsuit was filed before the Single Civil Judge while, as an adult, it should have been filed before the first instance courts. In 1986, the children's mother rectified her marital status to "married to [...] who is unregistered (Maktoum alQayd)".

In 1994, the father filed a second lawsuit before the Court of First Instance. He lost it again at appeal level on grounds that the mother's acknowledgment of affiliation occurred when he was an adult. FRH assigned an attorney to file a nationality lawsuit for Rami and Hadi on jus soli arguing that they were born in Lebanon and have birth notification issued by a legal midwife and the mother's marriage is registered in her personal status record that clearly indicates that the father does not hold the Lebanese or a foreign nationality.



• **NAEL AND HIS CHILDREN ARE STATELESS AND REGISTERED WITH THE GENERAL SECURITY AS “UNDER-STUDY”.**

Nael was born to a Syrian mother and an Egyptian father. Nael’s father had, for unknown reasons, his Egyptian nationality withdrawn from his grandfather. FRH assigned an attorney-at-law to file a lawsuit on jus soli grounds for Nael and his children. The judge requested an official attestation from the Egyptian authorities that the Applicant holds an Egyptian nationality or if he was eligible to acquire it. The Egyptian Embassy in Lebanon replied two years after the request was made and four years after the lawsuit was filed to confirm that the Applicant, along with his children, are not considered Egyptian.

**Jus Soli Lawsuits - Article 1[2] of Decision 15/1925 in conjunction with Article 12 of Decree no. 8837/1932**

The Lebanese nationality of nomadic tribes in Lebanon is regulated by Article 12 of the 1932 population census, Decree no. 8837. It stipulates that a tribe must reside in Lebanon for more than six months per year in order to be counted as Lebanese. During the census, many nomads did not register for different reasons. Some did not have proven evidence of the required period of residency such as documentation regulating the entry and exit of tribes into and out of Lebanon, as the demarcation of borders between Lebanon and Syria had not yet been completed.

Today, merely proving that the person in question belongs to a nomadic Arab tribe and that their tribe resides in Lebanon for more than six months per year is not sufficient for automatic Lebanese nationality. The effect of Article 12 of Decree 8837 ceased. It does not appear that this article is been used today as a legal ground to be considered automatically Lebanese. Nevertheless, nomad Bedouins today have to resort to court to obtain the Lebanese nationality as it is stipulated in Article 1 of Law 1967/68 that states individuals cannot be considered Lebanese nationals except through a lawsuit against the Lebanese state.

To clarify the interpretation of Article 12 of Decree 8837 and to test the conditions of territorial affiliation, FRH assigned lawyers to file two nationality lawsuits based on Article 1 [2] of Decision 15/1925 as primary ground and on the tribal origins that resided for more than six months per year as a secondary legal ground.

• **ALAA’ IS THE DESCENDANT OF A BEDOUIN FAMILY.**

One member of the extended family registered in the 1932 Census. Alaa’s grandfather did not register and later was registered as Qaid adDars “under-study” with the Lebanese General Security. FRH assigned an attorney to submit a nationality lawsuit on behalf of Alaa and his siblings on grounds that they were born in Lebanon and that they belong to a tribe proven to have been settled for more than six months per year in Lebanon during the census, and by virtue of the registration of one of his grandfather’s siblings in the census.



• **SALIM BELONGS TO A WELL BEDOUIN TRIBE SETTLED IN AKKAR SINCE DECADES AND SOME OF THE TRIBE’S MEMBERS ARE RELIGIOUS SHEIKS AND MUKHTARS.**

The majority of this tribe members registered in the 1932 census and obtained the Lebanese nationality, except Salim’s direct grandfather who remained unregistered [Maktoum alQayd] as well as his children and grand grandchildren among them Salim. He is married to a Lebanese woman and is a father of 4 children. He and his 4 children are stateless. FRH assigned an attorney to file a nationality lawsuit on grounds that Salim is born in Lebanon and does not have a nationality of any country and that he belongs to a well know tribe in Akkar who was resided in Lebanon for more than 6 months per year since before the census and until the present day.



### Jus Soli Lawsuits on Grounds of Article 1 [3] of Decision 15/1925

A third category of jus soli nationality lawsuits are filed invoking Article 1 [3] of Decision 15/1925 that stipulates that is considered to be Lebanese any person born on the territory of the State of Greater Lebanon from unknown parents (foundling) or parents of unknown nationality.

#### A. Children Born in Lebanon to Unknown Parents (Foundlings)

The legal text related to children born to unknown parents and whose filiation is not proven to anyone (foundlings) is related to newborn babies, usually found unattended in public places or in front of the orphanages' doors. The delay for the registration of foundlings administratively is 39 days. This is regulated in Article 16 of the Law on the Registration of Civil Status Documents. It also places the responsibility of preparing birth certificates and registering the birth on the caring institution where the foundling is placed by order of Public Prosecution's Office or upon the order of the Juvenile Court, or through the Union for the Protection of Juveniles in Lebanon. The foundling should not be estimated to be older than 30 days of age to be registered automatically. If the foundling was over 30 days of age it becomes necessary to resort to judicial authorities through the use of Paragraph 3 of Article 1 of Decision No. 15/1925.<sup>33</sup> Unfortunately, there is no official monitoring and control of social care institutions to ensure compliance of the laws and procedures. Few caring institutions do not follow the birth registration procedures for the foundling placed with them neither when the child is 30 days of age nor if over the age through the judiciary. As a result, the foundlings remain stateless.

FRH assigned attorneys-at-law for a few foundlings' cases referred by social care institutions. Some of the files of the foundlings did not contain any reports from the judicial police issued when the foundling was found or any document related to the child especially in cases where a protection order was issued by the Juvenile Judge or the Public Prosecution's Office. Almost the majority of the foundlings' files did not contain notes of monitoring and follow up visits that ought to be conducted by the competent authorities to ensure full protection including any information related to the registration process of the child by the institution. Moreover, the files did not contain periodic reports submitted to the court on a regular basis, as required by the juvenile law.<sup>34</sup> Some children who became adults stated that they did not receive any visit from a juvenile delegate during their full stay in the institution which exceeded 16 years.

As a consequence of the lack of proper and complete case files at the institutions, FRH faced difficulties obtaining evidences and proves to build the cases files to be ready for submission to courts. The possibility to reach a positive outcome depends on the judge's decision to request all necessary information and documentation from the different involved parties through judicial investigations to build a strong case.

#### • LEILA WAS HANDED OVER TO THE POLICE BY AN EGYPTIAN WOMAN IN 2014.

The child was estimated to be 2 years old then. In her statement to the police, the woman stated that a woman asked to attend the child for a moment in order to go to the car to get her some things. However, the woman did not return. Leila did not have any identity papers on her. The Egyptian woman confirmed that she did not know the other woman and did not know whether she was Leila's mother or not. Leila was placed in a social care institution, following the order of the juvenile court in Mount Lebanon as a foundling, based on the report of the police. Two years later, the institution referred the case to FRH to assist them with her birth registration. However, the caring institution did possess the basic and necessary documentation such as the protection order issued by the juvenile court and the policy report when Leila was found. Further, Leila's file at the institution did not contain any details that might make it easier to convince the court that Leila was born in Lebanon and her parents were unknown.

#### • SARI WAS BORN IN LEBANON TO A FATHER WITHOUT A NATIONALITY AND AN UNREGISTERED MOTHER [MAKTOUMAT ALQAYD].

The mother had mental disorders and spent years in a rehabilitation center where she passed away. Sari was abandoned by his father when he was still a child. Sari is today married and have five children who are all stateless.

#### B. Children Born in Lebanon to Parents with Unknown Nationalities

The second part of Article 1 [3] of Decision 15/1925 applies to children born in Lebanon to parents of "unknown nationality". The term "unknown nationality" is not clearly defined. According to the doctrine and jurisprudence are similar both children born to parents of unknown nationalities (parents who have a nationality that is unknown) and children born to parents with no nationalities.<sup>35</sup> Further, they also consider to be similar both the term "unknown nationality" and the term "unspecified nationality", which is a term used for people registered in the 1932 census as having "no nationality" and were given "unspecified nationality" identity

cards.<sup>36</sup> This identity was replaced by the Lebanese General Security to Qaid adDars (nationality under-study) residency cards in early 1960s. Any persons holding this new residency card is considered "a person... who does not hold a specified nationality."<sup>37</sup> The change of status of persons holding "unspecified nationality" to "under-study" had negative impact on them. Paragraph 3 of Article 1 of Decision No. 15, gave the possibility for children of "unspecified nationality" card holders to be considered Lebanese if they are born in Lebanon to parents of unknown nationality. However, since "unspecified nationality" card holders became



holder of “under-study” cards, the courts considered that these cards do not “prove that their nationality is unknown but that the Lebanese State is not able to study their situation in order to determine whether or not they can be given the Lebanese nationality. Hence, such cases do not meet the conditions of Article 1 (2) and (3) of Decree No. 15 /1925.<sup>38</sup> Another court decision stated that “the temporary residency cards issued by the General Security, indicating that the holders are of an unspecified nationality [after they migrated to Lebanon more than 30 years ago and reported that they cut off all ties with their native country, Czech Republic] and given with the intention of counting foreigners living in Lebanon for a long time without holding or presenting their original identity cards or passports to official authorities. This aims to count the numbers of foreigners and regulate their stay in Lebanon until their situation is permanently resolved. The expression unspecified nationality indicated on these cards, which was later replaced by nationality “under-study” as set forth in the opinion of the General Directorate of Census, cannot be considered, in the opinion of this court, a definite proof that the appellant’s parents became of unknown nationality.” The judgement continues: “whereas it is required that the appellants prove that their parents permanently lost their original Czech nationality, and that both the parents and the appellants were unable to obtain this nationality for reasons beyond their control related to the relevant nationality law.”<sup>39</sup>

The courts position is based on the Court of Cassation jurisprudence in one case related to a holder of “under study card”. The Cassation Court stated that “the fact that cassation appellants hold a nationality under-study card issued by the administrative authorities does not prevent

#### • NADER WAS BORN IN 1960 AND HOLDS THE “UNDER STUDY” CARD.

He is married to a Lebanese woman and have 10 children registered in the under-study category. Both his parents were registered as “under study”. Nader’s ascendants moved from Turkey to Lebanon before World War I when his father was taken to work with the Ottoman army during the war. The ascendants of Nader do not hold the Turkish nationality. Nader fled to Germany during the Lebanese Civil war where he applied for refugee status. During the process of refugee determination, the German authorities obtained confirmation from the Turkish authorities that Nader does not have the Turkish nationality.

them from knowing their real nationality through a judicial authority, as is the case in the current lawsuit.”<sup>40</sup> In another jurisprudence, the Court of Cassation stated that “there is nothing in the law called a nationality under-study... the departments of General Security... give them a card indicating that they their situation and nationality are being studied... this denomination is only given to non-Lebanese...legally known as foreigners.”<sup>41</sup> Further, the Committee of Legislation and Consultation considered that “the situation of people whose nationality is under-study is suspended until it is proven...as to whether these people hold a foreign nationality or not...”<sup>42</sup>

The majority of the persons that fall under Article 1 (3) belong to the newly created States after the dissolution of the Ottoman Empire, particularly Turkey, Iraq and Syria. These people came to Lebanon after 30/08/1924 and cut off all ties with their countries of origin. The statelessness of these persons can be resolved in Lebanon on Jus Soli grounds if born in Lebanon to parents with unknown nationalities, and if they have proven that they cannot obtain the nationality of their country of origin by affiliation.

Two jus soli lawsuits were filed on the grounds that the parents are of unknown nationality. The strategic litigation of these lawsuits is to elicit the court’s position regarding the explanation of Article 1 (3) of the 1925 Nationality Law.

#### Jus Soli Lawsuits on Grounds of Article 1 (2) and (3) of Decree 15/1925 Combined

Considering the difficulty of implementing the second part of para 3 of Article 1 of Decision No. 15/1925, 13 lawsuits were filed using para 2 (inability to obtain the parents’ foreign nationality by affiliation) and para3 (parents have no nationality). This applies mainly to refugees who fled in Lebanon after 30 August 1924 and who lost the nationality of their country of origin.

• **ADNAN WAS BORN IN LEBANON. HIS PARENTS ARE REGISTERED AS “UNDER STUDY”.** He holds an “under-study” card. Adnan thinks that his ancestors are of Turkish origins who came to Lebanon in 1925. Adnan married a Palestinian woman registered with UNRWA [the United Nations Relief and Works Agency for Palestine Refugees in the Near East] and the Directorate-General of Palestinian Affairs at the Ministry of Interior. He had 3 daughters. Adnan’s marriage and the births of his daughters were registered in the “under-study” records. Adnan’s brothers were naturalized by the 1994 Naturalization Decree. However, Adnan did not submit a naturalization request. Adnan’s lawsuit was submitted on ground of para 2 and para 3 of Decision No. 15/1925 on the basis of being born to parents with unknown nationalities and not obtaining a foreign nationality by affiliation upon birth.

### Lawsuits on Grounds of Article 1(2) and (3) of Decision No. 15/1925 in conjunction with Article 1 of Decision No. 2825

In Lebanon, there are tens of thousands of unregistered persons [Maktoum alQayd] of Ottoman origins. Many of them their ancestors were Turkish “citizens” living in Lebanon. According to the Treaty of Lausanne, any person who was a Turkish [i.e., Ottoman] citizen residing in a province which was separated from Turkey automatically becomes a citizen of the new created state where he is resident. People above the age of 18 were given the right to choose within the time limits and conditions the Turkish nationality or another nationality if they belong to a majority of the population present in the chosen state.<sup>44</sup>

According to the Ottoman Law issued in 1869<sup>45</sup> every person who lives on Ottoman territory is considered of Ottoman nationality until the opposite is proven. Decision No. 2825, which executed the Treaty of Lausanne in Lebanon,<sup>46</sup> stipulated in its first article that any person who was an Ottoman citizen and lived in Lebanon on the date the decision was issued, on 30/08/1924 is automatically considered Lebanese and loses the Ottoman nationality, unless they opted for another nationality.

In Lebanon, there are tens of thousands of unregistered persons (Maktoum alQayd) of Ottoman origins. Many of them their ancestors were Turkish “citizens” living in Lebanon.

As a result, anyone who proves that they [or their ascendants] lived in Lebanon on 30/8/1924, which was part of the Ottoman empire, and who does not have a foreign nationality shall benefit from the presumption of Ottoman nationality and shall be considered as meeting the first condition of Article 1 of Decision 2825.

Article 13 of Decree No. 8837 organizing the census confirmed this rule. Hence, the refugees who came to Lebanon from Ottoman territory and who were in Lebanon on 30/08/1924 are automatically considered Lebanese and their children and spouses shall acquire the Lebanese nationality automatically, by virtue of Decision No. 15/1925.

Article 1 of Law No. 68/1967 refers to the term Maktoum alQayd [unregistered] exclusively to refer to persons who were not registered in the census and the provisions of the Treaty of Lausanne applies to.

Today, any person that prove that their ascendants were Ottoman citizen who lived on the territory of the “State of Greater Lebanon” on 30/08/1924, and that they did not opt for another nationality newly separated from the Ottoman empire, can file a nationality lawsuit before the competent civil courts<sup>47</sup> requesting the declaration of their Lebanese nationality, i.e., to be automatically considered Lebanese. They may also benefit from the presumption of the Ottoman nationality by residing on Ottoman Empire territory on 01/11/1914 and resort to the civil courts in accordance with Article 10 of Decision No. 15/1925.

Two lawsuits were filed on the grounds of these articles. However, the main problem facing these persons is providing prove of historic events that date back to around 100 years today, especially that the majority of persons do not hold any related documentation nor have oral history of their families’ origin, and there is no literature about them. Further, they have no access to official Ottoman documents, nor the courts attempt to obtain them for them even after the recent issuance of the law on access to information.<sup>48</sup>

• **JALAL AND HIS SIBLINGS WERE BORN IN LEBANON.**

His ancestors have been living in Beqaa for many decades before the creation of the State of Greater Lebanon. Jalal’s ancestors did not register in 1921 and 1932 censuses as they ignored the importance of the census. Jalal’s grandfather held an “under-study” residency permit but do not have copy of this document. They tried to obtain any documentation to prove their belonging to Lebanon to no avail.



**• HASSAN AND HIS SEVEN SIBLINGS WERE BORN IN LEBANON.**

They belong to nomads settled in the Beqaa more than a hundred years ago. They are unregistered [Maktoum alQayd]. Hassan's ascendants were not registered in the 1921 or the 1932 Census. Hassan's grandfather was later registered in the "under-study" category but his father was not registered as "under study". Hence, Hassan and his siblings do not possess any identity documentation. Recently, he obtained a "laissez-passer" passports issued by the General Security that states the nationality as "stateless persons".

In Lebanon, there are tens of thousands of unregistered persons (Maktoum alQayd) of Ottoman origins. Many of them their ancestors were Turkish "citizens" living in Lebanon.

**Lawsuits of Nationality by Marriage - Article 5 of Decision No. 15/1925**

These lawsuits involve Lebanese men married to unregistered women. Cases of such marriages is high. 30% of FRH caseload belong to this category.

The Lebanese law does not contain any texts related to an unregistered wife acquiring the Lebanese nationality by marriage. Therefore, courts adopt article 5 of Decision no. 15/1925 related to foreign wives.

However, the marriage of a Lebanese man to an unregistered woman [Maktoumat alQayd] is, unlike foreign woman, cannot be registered administratively, but through a lawsuit to rectify marital status of the husband. As the woman is unregistered, the administration does not open a field for her in her husband civil record but rather a marriage mark is put on the last column of the husband's record. However, the administration does not consider adding a marriage mark judicially to an unregistered woman as registration, according to the definition of Article 5 of Decision No. 15/1925, which regulates the right of a foreign wife to acquire the Lebanese nationality one year after the registration of the marriage, as is the case with adding the mark administratively. The marriage certificate is not executed in the first case while it is executed in the second. As a result, the unregistered wife is referred to judicial authorities to acquire the nationality, whereas the foreign wife who holds a specific nationality acquires it administratively and is transferred from the register of foreigners to the register of residents.

In light of this administrative practice, and although Article 5 does not refer remotely or closely to the requirement of an unregistered wife to resort to judicial authorities in order to acquire the Lebanese nationality, just as the foreign wife, the judicial authorities found themselves obliged to decide on these cases in order to fill the legal vacuum, especially when the administration refuses or refrains from taking the action that falls under its jurisdiction. The judicial authorities shall base their actions on their role as the protectors of the rights of all individuals and their duty to decide on any case brought before them under penalty of considering them unjust.<sup>49</sup>

Since Article 5 does not define the concept of "foreign" to which its provisions apply, jurisprudence settled on the fact that this concept includes every wife that does not hold the Lebanese nationality, whether she has a specific foreign nationality or an unspecified foreign nationality or "under-study",<sup>50</sup> or she was a stateless person of an unknown nationality, as is the case for unregistered women.<sup>51</sup> Two lawsuits were filed on the basis of acquiring the Lebanese nationality by marriage of unregistered women married to Lebanese men who changed their marital status from single to married to an unregistered woman.

**[1] HAYAT IS AN UNREGISTERED (MAKTOUMAT ALQAYD) WOMAN WHO WAS BORN IN LEBANON IN 1957.**

She is of Syriac origins and fled from Turkey because of the oppression that the Christian minorities faced during the end of World War I. Hayat got married in 1973 to a Lebanese man who changed his marital status to be married to an unregistered woman on 24/02/1986 and he registered his children. Hayat's husband died a short while after the marriage's mark was added on his civil record. Given that she wanted to acquire the Lebanese nationality, she asked the civil status officer how she could obtain the nationality by marriage. He told her she could not submit an administrative request and that she had to resort to judicial authorities. This discouraged her from seeking the nationality because she had neither the financial capacity nor the knowledge to file a lawsuit.

**[2] AHLAM IS AN UNREGISTERED (MAKTOUMAT ALQAYD)) WOMAN WHO WAS BORN IN 1985 TO UNREGISTERED PARENTS.**

Both her parents were naturalized separately by virtue of decree 5247/1994 as single persons. Ahlam got married in 2000 at the age of 15 to a Lebanese man naturalized by virtue of decree 5247. Ahlam's husband rectified his marital status from single to married eight months after the marriage and before the birth of their six children who are registered in the Lebanese records. The economic situation of Ahlam and her husband prevented them from filing a lawsuit for Ahlam to acquire the nationality by marriage.



PART 3

**ACCESS TO JUSTICE:  
A COMPLEX AND  
HARDSHIP PATHWAY  
FOR STATELESS  
INDIVIDUALS**

## Access to Justice: A Fundamental Human Rights Principle

Access to Justice is a fundamental human rights principle and standards. This principle is enshrined in the core international human rights. Article 8 of the Universal Declaration of Human Rights (UDHR) states that: “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him/her by the constitution or by law”; and Article 2 of the International Covenant on Civil and Political Rights (ICCPR) stipulates: “Each State Party to “[a] ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; [b] ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; [c] ensure that the competent authorities shall enforce such remedies when granted.”

The principle of access to justice is not simply limited to access to courts and legal representation, it entails



access to legal awareness and knowledge, access to protection, legal aid, advice and counseling, judgement, enforcement, and civil society monitoring.<sup>52</sup> Thus, Access to justice must be ensured if a society were to be truly based on the rule of law.

Lebanon is bound by these treaties and principles. In reality, many of what this principle entails are not ensured today. The Lebanese justice system is heavily politicized and there are serious allegations of chronic corruption inside it. In addition, the system lacks many of the basic and necessary features such as adequate dissemination of legal information, a systematic and comprehensive legal aid system; free legal advice and pro-bono legal representation. Added to this is the prohibitive costs of using the system and the complex procedures and long delays of the proceedings. All this hinders average citizen from accessing justice and increase the lack of confidence in the system and limit access to justice that makes this right futile. In the case of stateless persons, these problems impede the possibility of such individuals to end their legal status, whether through birth registration or nationality law suits.

However, stateless persons resorting to courts to end their statelessness face a number of obstacles. These extend from poor application and interpretation of laws that help prove their right to obtain a nationality; insufficient information related to laws and procedures; wrong advice provided from non-specialized actors, the unaffordable cost, and the long delays in the court proceedings and at the execution stage

## Poor Application of Laws Single Judges Malpractices in Birth Registration lawsuits

Despite the non-contentious nature of registration of civil status events, many Single Judges decide to apply to adjoin the Lebanese State to be an adverse party in such lawsuit, particularly when the case involves an adult child. Yet, ironically, the state’s lawyers rarely attend the courts proceedings and do not present their arguments. This “unlawful” practice is justified by the legal professionals is to pre-empt the appealing after the judgement is issued.<sup>53</sup>

**ARTICLE 601 OF CCP STATES**

*“Pursuant to the provisions of article 86 paragraph 1 clause 3, a third party affected by the non-contentious judgment may challenge it, within 8 days of the date of circulation of the judgment or one of its implementing procedures, before the judge or the court which issued this judgment. This may be done by a legal petition brief presenting the reasons for challenging the judgment and requesting the appearance of the person benefitting from the judgment before the judge or court. If the judgment was issued by the Head of the Court of First Instance, the challenge shall be submitted before said Court.*

*The period for challenging a judgment for the State and public administrative institutions is 30 days from the date of notification.*

*If the affected third-party was not notified of the non-contentious judgment or any of its implementing procedures, the third party may appeal the judgment by challenging it in accordance with the provisions of the previous paragraph throughout the period of prescription of its right. The challenge shall be considered judicially and immediately.”*

Another malpractice by a number of Single Judges consists of requesting, before the lawsuit is officially registered or at the start of the case proceedings, from the Civil Status Officer to provide registration annotations of the Lebanese father’s civil records despite the fact that the lawsuit is filed with all the requested documentation recently obtained from the family civil registry extracts. Further, the Civil Status officer may also be asked sometimes to attend the hearings and give and/or offer his/her opinion on the lawsuit itself. This request is not legal, for the only mandatory time the Civil Status Officer has to attend and provide an opinion is in record correction lawsuits only.<sup>54</sup> Sometimes the Civil Status officer goes beyond its role and asks for the state to be included in the case as a party in a non-contentious lawsuit.

Nonetheless, these practices first change the registration lawsuits from non-contentious to a contentious one or a kind of “hybrid” lawsuits and secondly complicate the proceedings leading to further the court proceeding delays.

**Different Interpretation of Legal Concepts in Nationality Lawsuits**

The majority of the nationality lawsuits is fraught with problems deriving from confusion and contradictory interpretations of legal concepts. In some cases, the arguments presented by the lawyers in their legal briefs were shallow, void of important specific data and supporting documentation, and in some cases, they used wrong legal grounds. The same could be found in the State’s counter arguments briefs as well as the opinions submitted by the Civil Status authorities, and to a certain degree by in courts’ decisions and rulings.

**Lawyers’ Legal Briefs: Confusing legal grounds and void of necessary proves of evidence.**

In a few numbers of nationality lawsuits, plaintiffs’ lawyers filed short legal briefs that lacked proper argumentation and justification. They lacked detailed facts of the case. In some cases, the facts of the cases were misrepresented and/or contradicted the supporting documents and/or the statements of the witnesses. In other cases, the legal grounds are confused.

For example, in one lawsuit, the submitted lawyer’s legal brief contained two distinctive legal grounds that cannot be used interchangeably and contradicting the case facts. The case involved a foundling born to unknown parents. However, the lawyer used the legal ground “born to unknown parents” and “born to parents of unknown nationality” which means that parents are known!

In another lawsuit, the lawyer’s legal brief requested the nationality for the plaintiff on ground that he was born in Lebanon to parents “without nationality”. Further, the brief did not provide any details and facts as proof of evidence that the parents do not hold any nationality and the

A large number of the State's counter arguments in a number of reviewed nationality lawsuits show that they fail to present serious legal analysis in terms of its legal grounds, merits, and reasoning and do not present justification for their decisions.

Applicant was born in Lebanon. Yet, the legal brief concluded that "it has been established and proven that the Applicant was born in Lebanon and did not acquire, by birth, any foreign nationality, and that his parents are of an unknown nationality"!

Another lawsuit before the Court of First Instance was based on Article 4 of Decision No. 15/1925. The plaintiff was a child born to a naturalized father by the Naturalization Decree No. 5247/1994. The plaintiff was a minor when her father acquired the Lebanese nationality. The lawyer only stated that she was born to a father who was naturalized. He failed to mention the two conditions for the applicability of Article 4 provisions: the date of birth of the plaintiff and the date the father executed the naturalization decree and acquired the Lebanese nationality!

In a lawsuit involving the acquisition of the nationality submitted on behalf of a nomad plaintiff and his son on the basis of birth in Lebanon and belonging to nomadic tribe residing in Lebanon for decades. The lawyer's legal brief was quasi void of necessary proof of the two conditions. It did not provide reasonable evidence supported with documentation about the family's ancestors were nomads who did not register in 1932 population census for historical reasons, and the birth occurred on the Lebanese territory. The lawyers supported the case by giving facts about the Plaintiff relatives who were registered in Lebanese registers in order to prove that the plaintiff has Lebanese roots on the basis that his ancestors from his father's side were residing on the Lebanese territory in 1924 and were born in Lebanon. Moreover, the lawsuit was submitted on behalf of the father only as no facts were presented regarding the son! Furthermore, the legal grounds and facts were badly muddled. The legal grounds were badly muddled. The lawsuit was submitted on grounds of paragraph 2 of Article 1 of Decision 15 (born in Lebanon and did not acquire any foreign nationality upon birth) rather than Article 1 of Decision No. 2825/1924 (having Lebanese roots and residing in Lebanon in 1924 but not acquiring the Lebanese nationality)!

### State Counter arguments: A Long List of Negligence

In nationality lawsuits, the State is represented by lawyers assigned by

the Ministry of Justice – Case Affairs body. A large number of the State's counter arguments in a number of reviewed nationality lawsuits show that they fail to present serious legal analysis in terms of its legal grounds, merits, and reasoning and do not present justification for their decisions. They usually adopt the opinion of the General Directorate of Personal Civil Status Department, particularly when their opinions tend to be negative. In such situation, it becomes difficult for the plaintiff to respond to such counter argument briefs. This violates the right to defend the claim and respond to the State's arguments.

Some of the State's counter arguments are abusive of the process and indicate the State's practice to just provide legal grounds regardless if they are valid or not. In addition, some State's counter arguments are filled on a pre-set template and all counter argument briefs systematically contains the expression "request to dismiss the case on procedural grounds" without tackling the plaintiff's requests and thoroughly looking into the Applicant legal brief to see if it is contrary to the process of law and should be dismissed on procedural grounds.



### Laconic Counter arguments: Contradiction and Lack of Justification

In one nationality lawsuit based on jus soli and Decision No. 2825, the State's counter brief was made of one single page. In addition, it was a pre-prepared template and the names of the Applicants and attorney, and the reference number were filled by hand. The State's reply was devoid of any legal analysis and justification for their opinion. Yet the State requested the dismissal of the case on procedural grounds as it is found that it does not meet the procedural requirements set by the process of law. Further, The State declared its adoption of the opinion of the administration which dismissed the legal arguments of the Application for its illegality, abuse of process, and lack of evidence.



Similar one-page counter argument brief submitted by the State's attorney in a nationality lawsuit based on Art. 1 [2] and [3] of Decision No. 15/1925, the State's dismissed the case without adequate legal justification. It simply adopted the brief unsupported of the General Directorate of Civil Status opinion that stated: "the text of Article 1 of Decision No. 15 issued on ... does not apply to the case of the Applicants". Yet, the investigation of the General Security did not refute the legal grounds upon which the Applicant based his requests in the legal brief.

In another nationality lawsuit based on Art. 1 [2] and [3] of Decision No. 15/1925 in which the Applicant holds an under-study residency permit [Qayd adDars], the State legal brief dismissed the case and simply stated that it adopts the response of the General Directorate of Civil Status which argued that the legal provisions upon which the Applicant based his claim, do not apply as the Applicant falls under the category of "nationality under study" [Qayd adDars] without providing any justification or explanation as to why the legal provisions do not apply to the case.

### Irrelevance of legal ground

In some cases, the State's attorney legal counter arguments are irrelevant. For example, in a nationality lawsuit based Art. 1 [2] of Decision No. 15/1925, the State attorney dismissed the case and once again based his arguments on the opinion of the General Directorate of Civil Status which presumed that the Applicants did not present any documents that prove they are of Lebanese roots while the Applicants' lawsuit was submitted on grounds they are born in Lebanon and have not acquired any foreign nationality upon birth, a legal ground that is not linked to Lebanese roots.

In another nationality lawsuit related to the acquisition of nationality by marriage involving unregistered woman [Maktoumat al Qayd] married to a Lebanese man, the State's attorney counter arguments brief requested the dismissal of the case on the basis of the intentions of the Applicant! The brief argued that the Applicant seemed to have waited until the death of her husband to request proof of her marriage in order to register her children and acquire the Lebanese nationality through marriage. The State attorney ignored that the children are already registered in their father's personal status civil record and they are not applying to acquire a nationality, and that their mother is requesting the Lebanese nationality on ground of her marriage to a Lebanese national for more than one year in accordance with Article 5 of Decision No. 15/1925!

### Many Contradictions

In response to the legal brief submitted by an unregistered woman to acquire the Lebanese nationality by marriage, The State's attorney counter argument brief requested that Applicant to provide proof by submitting relevant documentation that she had applied for the nationality administratively and at the same time it requested the dismissal of the case.

In another nationality lawsuit, the State counter argument brief contained contradictory opinion as on one hand, it requested delaying the matter until the General Directorate of Civil Status provides its opinion and the results of the General Security investigations outcome and DNA tests it, and on the other hand, it requested the dismissal of the case on ground for "...its illegality, invalidity, inaccuracy, and lack of proof".



### Failure to Understand Legal Concepts

A large number of State's counter arguments contain misunderstanding and/or confusion of legal concepts, or incorrectly use of laws not related to nationality and civil status cases. For example, the term "nationality is used to refer to "under study" case. This is revealed in few lawsuits related to Applicants holding "under-study" residency permit. The States attorney considered that the conditions of Article 1 [2] of Decision No. 15/1925, and more specifically the second condition [not acquiring any foreign nationality upon birth], do not apply as the Applicants are classified in the "under-study" category at the General Directorate of General Security confusing that such a classification does not mean holding a nationality.

Another confusion is when the term "origins/roots" is used to mean nationality. This is the case of an Applicant of Egyptian origin the State adamantly insisted that the Applicant and his children hold the Egyptian nationality when, in reality, they are only of Egyptian origin but are not eligible for the Egyptian nationality. In addition, the State confuses between acquiring the nationality and being granted the nationality in accordance by a Naturalization Decree. Further, in one nationality lawsuit based on Article 1 [2] of Decision No. 2825/1924 related to residency on the Lebanese territories, the State stated that the courts of justice have no jurisdiction to grant nationality but rather its acquisition shall

be subject to a decision by the Administration or a decree, while the law, based on the Treaty of Lausanne [Law No. 68/1967],<sup>55</sup> clearly stipulates that such cases fall under the jurisdiction of the courts alone. In a similar way, the State considers, in another case, that the “acquisition” of the Lebanese nationality by an adult whose father is Lebanese requires a Naturalization Decree, as the State confuses between naturalization and the acquisition of nationality by law [de jure].

### Persistent Problems in Providing Proof of Evidence

Providing proof of evidence constitutes a fundamental pillar in nationality and registration lawsuits, as well as all other types of lawsuits, because such cases are built upon material facts that should be supported with relevant and strong evidence and proof that satisfy the conditions of the conditions set by the law. Prove of Evidence falls within the jurisdiction and absolute authority of the Courts. According to Article 132 of the Lebanese Code of Civil Procedure, the burden of proof lies with the person who brings a claim in a dispute. This is confirmed by the jurisprudence of the Court of Cassation.<sup>56</sup> All means of proof are admissible in nationality and civil status lawsuits.<sup>57</sup> Moreover, non-contentious registration lawsuits are subject to the judge’s conviction, which shall be based upon the conducted investigations which the judge deems as beneficial and useful for the case, and which might provide him/her with further information in this regard, as well as the facts relevant to the case, even if the Applicant does not invoke or claim such facts.<sup>58</sup>

Many Applicants of Lebanese origin or have historical roots in Lebanon do not have all the documents that allow them to initiate legal proceedings. They face difficulties in obtaining the necessary personal documentation from the official and non-official sources to support their claims such as from midwives, mukhtars [for those who have no records at all] and the Administration [for those who have records] during the whole process from building the case to during the court proceedings and after. This is due to a number of reasons and factors.

The Applicants face difficulties to prove birth in Lebanon as the majority were given birth by unofficial midwives most of them passed away long time ago, or the parents did not obtain a birth notification from the midwives at birth of their children. Additionally, many Applicants, for a number of reasons, do not possess a marriage contract either they conducted the marriage orally or lost it and did not proceed to correct their marital situation before the religious court to obtain of proof of marriage and kinship. In some cases, obtaining such rulings becomes

extremely difficult if the marriage in question dates to several generations back.

The same applies to Mukhtars who unjustifiably refuse to issue documentation that fall under their authorities. For example, in one of the cases, the Mukhtar refused to issue a birth certificate for a child whose father wanted to file a lawsuit to court in order to register his son under his record. The Mukhtar argued that issuing such a certificate would subject him to interrogation by the General Security or, and he also refused to mention the child’s name in the proof of residence issued to the father because there is nothing that proves the child is his son. In another case, the Mukhtar refused to issue an Identification [Ta’rif] Certificate, proof of residence, and a laissez-passer passport application claiming that it is not within his authority. to take on such matters and therefore asked for the opinion of the General Security.

A large number of State’s counter arguments contain misunderstanding and/or confusion of legal concepts, or incorrectly use of laws not related to nationality and civil status cases.

The economic burden in another factor that many Applicants face in their efforts to obtain documentation - when that is possible - as the cost exceeds their financial abilities. For example, the Mukhtars, sometimes ask for exorbitant, unjustified fees to issue personal identification documents. Also, lawsuits before religious courts to prove marriage or kinship become more expensive if the marriage and kinship in question go back to several generations back.

The difficulties and obstacles to obtain documentation to support their lawsuits claims extend during court proceedings. In many lawsuits, the courts request additional documentation that are either irrelevant, unjustified, or inaccessible and quasi-impossible

to obtain as they may be available solely with the Administration but not accessible to the individuals. This is particularly the case when the courts request evidence to the Applicants ancestors’ roots and origin. The Applicants are unable to access the Administration microfilms or archives to extract copy from the archived Ottoman records either to prove they are of Ottoman origin, or that they historically resided in Lebanon, or that they do not hold any other nationality, or their ancestors were registered in one of the various populations censuses up to 1932.

This was evident in the review of the lawsuits. For example, in one lawsuit involving a naturalized Appellant as single requesting the registration of his children who were minor at the time of naturalization, the Court of Appeal requested that the Appellant presents a true copy of the documents submitted to the competent authority for naturalization. The Appellant was not able to provide such documents as he did not keep a copy of the original application before submitting it to the Administration, and it was difficult for him to access his file to retrieve copies. Considering the burden of prove lies in the Appellant, the court did not consider issuing a court order explicitly requesting from the Administration submission of these documents.

In another lawsuit involving the registration of an adult child in the Lebanese father’s civil status record, the submitted documentation included a proof of marriage and kinship issued by the Shari’a’s court which proves the legitimacy of parenthood within the framework of

a legitimate marriage. Despite the religious court's ruling, the judge demanded that both parents provide a formal acknowledgment of parenthood concluded at the Notary Public's office to confirm kinship. Such request is legally not justified for the acknowledgement of paternity/



parenthood is, according to Article 15 of the Law on Registering Civil Status Documents, a procedure established for children born out of wedlock only.

In a different lawsuit submitted by the father requesting the registration of the births of children, the legal petition brief included attestation signed by the unlicensed midwife who assisted the delivery of the children and authenticated by the Mukhtar, and proof of marriage and kinship issued by a Shari'a court. Contrary to the facts of the case, the judge requested proof that the births of the children were attended by a licensed midwife, and a copy conform of the marriage contract disregarding the clear information in the legal petition brief and the supporting documentation.

Many stateless persons believe that the only solution to end their statelessness is naturalization, a matter that is discretionary and not a right. For this, they do not give much importance to obtain documentation such as birth notification from the midwife or the doctor who assist the delivery of their newborn baby on the Lebanese soil, and many of them, their births, are assisted by unofficial midwives that cannot give them

birth notification. Many of them seek judicial solutions years after their birth and lack proper details of their place and date of birth and have no evidence to support their claim. Some of them cannot even find witnesses to confirm their date and place of birth and/or origin as they may be second or third generation, and themselves rarely can provide credible information about their origin and causes of their statelessness. As such they have difficulties to meet the two legal conditions - birth in Lebanon and non-acquisition of a foreign nationality upon birth by affiliation and/or prove cannot acquire another nationality. The inability to meet these conditions is further aggravated as access to public documents that may help them to find any record the claimants can prove that their ancestors were in Lebanon in 1924, such as the Ottoman Register, and the population census of 1921 and 1932 whether they were registered as foreigners, as Lebanese, or as people without a nationality.

Many stateless persons believe that the only solution to end their statelessness is naturalization,

### THE RUGGED ROAD TO ACCESS JUSTICE

The most prominent barriers are the lack of sufficient information regarding laws, practice, and rights, wrong advice presented to litigants, and the high cost of accessing the judicial system.

### Poor Knowledge of Laws and Procedures

Lack of basic knowledge of the laws and procedures is common among most Lebanese regardless of their background and level of education. In Lebanon, unlike most countries,<sup>59</sup> there is no proper and adequate, comprehensive civic education in the school's curriculum. Furthermore, the various public institutions and bodies do not have information desks or posters clarifying the different laws, procedures, and steps that should be taken in order to complete a certain transaction. There are also no local free legal advisory centers in the different Lebanese regions for individuals to seek and obtain advise for different legal issues.

For instance, some parents do not know that they should declare the birth of their new born child within the one-year delay from the date of birth in order to be registered administratively otherwise they will have to file a registration lawsuit after. Also, many mothers do not know that they can declare the birth and this is not exclusive to the father.

Unfortunately, many parents, particularly among the most marginalized and vulnerable, believe that the mere issuing of a religious marriage certificate and/or religious court ruling of proof of marriage or the issuance of a birth certificate endorsed by a Mukhtar means their event is "officially" registered automatically.

Lebanese parents of children born out of wedlock do not know that they can register the child if either the two parents or one of them acknowledges filiation. Ignorance also affects many children born to Lebanese fathers and unregistered women. They remain stateless because there is a quasi-general ignorance that a Lebanese man married to an unregistered woman can file a lawsuit before the single judge to correct his marital status and

hence be able to register his children administratively.<sup>60</sup>

In addition, some people do not even know that they can file a lawsuit to register their children, nor where such a petition can be submitted, and they are also unaware that such a lawsuit can be filed without the need to be legally represented by an attorney and avoid the fear of having to pay lawyers high fees. The same applies to those who can acquire the nationality through filing a nationality lawsuit based on jus soli grounds if they meet the legal conditions. Plus, the vast majority of persons might not know the actual costs of registration and nationality lawsuits' fees and think that they are very expensive, a matter which might discourage them from filing such lawsuits.

### Wrong Advices

To fill the gap of the lack of civic education and availability of official information, Lebanese people heavily rely on hearsay when they need to be informed about a legal matter which generally if followed turns to have negative consequences. The findings of this study show that many stateless persons, particularly parents of unregistered children, were either unaware of the laws and regulation. When resorting to other unofficial sources, often they obtain wrong or inaccurate or incomplete information or advise about the procedures that ended in their children stateless.

### Wrong Advice Provided by Mukhtars

One of the roles of Mukhtars<sup>61</sup> is regulating the relation between the individuals and the state and are key actors in civil status procedures, and a source of information about the laws and regulations. In reality, there are a number of Mukhtars who seem to be unaware of the laws in force as they provide wrong advice or carry out wrong procedures impeding the person concerned from reaching the appropriate solution or delaying and complicating the procedures.

For example, in one case, the Mukhtar advised a father of eight children to file a nationality lawsuit based on proof of kinship mentioning only six children, assuring the father that the remaining children will be easier to obtain another civil ruling to register her later, ignoring the fact of the double action, cost and time consuming.

there are a number of Mukhtars who seem to be unaware of the laws in force as they provide wrong advice or carry out wrong procedures impeding the person concerned from reaching the appropriate solution

In another case, the Mukhtar was asked by the parent to complete the registration of their child with the administration. Yet, he delayed to do so within the one-year period awaiting the religious court proof of marriage, and consequently, the child became stateless. Further, this obliges the parents to resort to court and bearing the long proceedings and extra cost.

### Wrong Advice Provided by Attorneys

In a number of cases, lawyers, contrary to Articles 9 and 10 of the Code of Ethics of the Law Profession,<sup>62</sup> provided their clients with wrong or inaccurate advice. In one case related to execution of the naturalization decree by a stateless person, the lawyer advised his client not to execute the decree and wait until another naturalization decree is issued. Hence, the client lost the opportunity to end his statelessness and his children, born after the issuance of the decree remained without registration when if the decree was executed, his children would not be stateless too.

In another case of a naturalized Syrian man who wanted to register his marriage conducted in Syria after the execution of the naturalization decree, the lawyer advised him to file a lawsuit to rectify his marital status rather than advising him to obtain a Shari'a Court ruling validating his marriage and then executing the registration of his marriage administratively. The lawsuit lasted more than 4 years and during that period, his newborn child was stateless.

In another registration lawsuit, the lawyer advised his client to include the cousin as his child to acquire with his children the Lebanese nationality knowing that the DNA test shall reveal the truth. As a matter of fact, when the court requested the DNA test result came out showing non-matching, the lawsuit was suspended and the client's child lost his chance to acquire the Lebanese nationality.

In a different case involving a child born to a Lebanese mother and a father whose nationality is "under-study", the lawyer advised the father to register the child as an "illegitimate child" in the mother's civil records, ignoring the fact that the child is legitimate and the documents show a marriage contract and prove of marriage and kinship ruled by the Shari'a Court.

In another registration example, the lawyer informed the parents that the DNA test shall cost them \$1,800 when in fact it cost \$600. The high cost of the DNA test discouraged the parents from filing the registration lawsuit.

### Wrong Advice by Religious Persons

In many situations, individuals turn to the Muslim Sheiks to obtain advice in civil status events matters that are sometimes wrong or inaccurate. For example, a Ja'afari court told a Lebanese man married to an unregistered woman that they cannot validate his marriage when there are no legal barriers to validate such marriages.

Some Muslim Sheiks, moreover, conduct marriages disregarding whether or not all conditions are met. This leads either complicate and delay the validation of the marriage in religious courts later or not being validated at all making it impossible to register the marriage and the registration of the children born within this marriage.

This is the case of a divorcee woman who remarried a second time. The second marriage was concluded by a Muslim Sheik. However, her divorce in the Sharia court was not executed in her civil records, hence she is still married. In this situation, her second marriage could not be validated by the religious court in order to execute it in her civil records. Her children born from the second “marriage” became stateless.

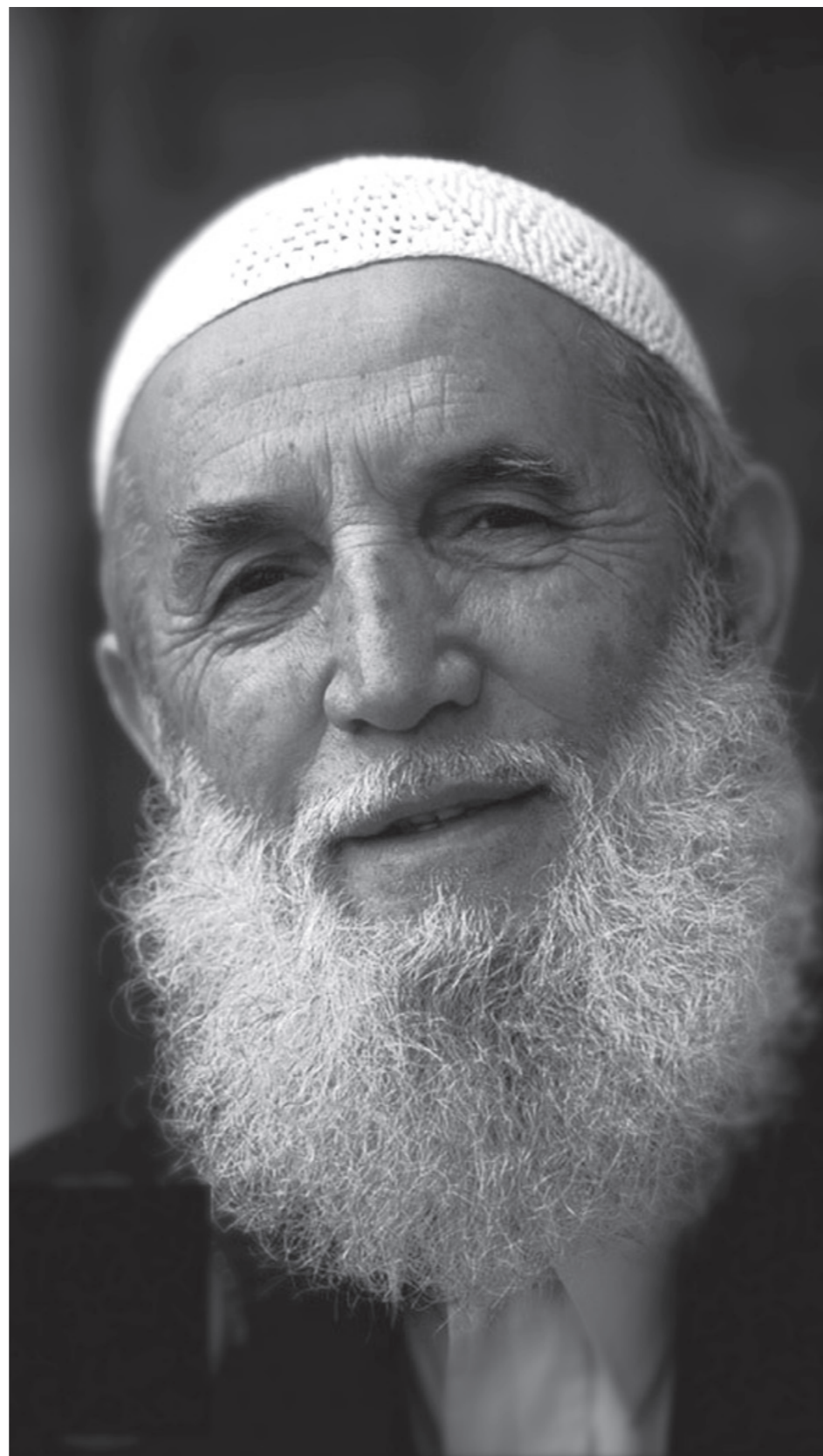
In another case, a Muslim Sheik concluded a marriage of a divorcee woman a week after her divorce from the first marriage took place. Considering that a divorcee must wait a certain period before she remarries (Iddah), the woman’s second marriage could not be validated in the religious court; hence could not register her marriage in the civil records and the children became stateless.

Other wrong advices are related to marriages between different religions. Considering a Christian man must convert to Islam if he wants to marry a Muslim woman, a few Muslim Sheik concludes the marriage based solely on grounds that the Christian man converted orally in front of him to Islam. Considering that the conversion of religion should first be registered in the man’s civil records before getting married, his second marriage could not be registered nor register administratively his children born this marriage.

### Costs Beyond Means

The cost of pre and during judicial proceedings is one of the main reasons that hinders stateless individuals from seeking to access judicial solutions to end their statelessness. Sometimes they file the lawsuits but do not continue in the middle of the proceeding due to their inability to bear the costs. This is common in both registration and nationality lawsuits.

The high cost of judicial proceeding is not limited to the official rates or fees. In reality and practice the cost and fees are sometimes doubled or tripled beyond



any justification. This unofficial cost is widespread horizontally and vertically in the Lebanese society and commonly known in Lebanon as “bartala” [additional side fees/bribe] paid for civil servants and local authorities to submit files or accelerate processes. Such additional costs are not supported by any receipts. This is added to the cost of transportation and absenteeism from work in order to carry out the different procedures, reviews, follow-ups, sometimes with the same authority. If a person decides not to pay these “unofficial” costs, her/the documentation needed for his file will never be provided, nor the court’s proceedings will start or continue. Based on our review of the cases, the average cost of the lawsuits is US\$500 excluding the lawyer’s fees and the DNA test cost. This figure is higher if the lawsuits involve a large number of family members and/or a nationality lawsuit.

The pre-judicial proceedings cost involves building the judicial file for submission, such obtaining the necessary documentation from the Mukhtars, a proof of marriage and kinship from the religious courts, and original copies of their civil records from the civil status departments [in case of registration lawsuit]. Sometimes, they have to obtain birth notifications from the midwives or hospitals. In addition, the private lawyers’ fees and of the power of attorney are beyond their means. During the judicial proceedings, the costs are mainly related to cost of filing the lawsuit, and the notification of the court’s decision to the different parties; and in the case of registration lawsuit, there is the high cost of the DNA tests. The execution of the courts’ decisions or judgements is an additional cost.

### Unlawful Mukhtars’ fees

The documents required to file a registration or nationality lawsuit usually include attestations, certificates, and other related papers issued or authenticated by the Mukhtar of the place of residence, the place of birth of the Applicant, the location in which the parents of the Applicant got married, or the place of the parents’ registration and records. Such documents are deemed necessary either to prove the identity of the Applicant or to put an end to his/her status as unregistered.

The Law on Mukhtars and Mukhtar Councils<sup>63</sup> stipulates clearly the type of documents that should be issued by Mukhtars, free of charge, and small fees documents specified by a decree,<sup>64</sup> and Decree no. 2262 sets the Mukhtar’s fees for issuing an original certificate at 500 Lebanese Liras [about 33 cents].

Some Sunni Shari'a Courts, if the marriage was concluded by a Sheikh, issue a new "marriage" contract before ruling proof of marriage, which cost ranges between 100,000 and 125,000 Lebanese Liras (\$66-\$83).

In reality, Mukhtars charge for every document they issue and the fees are high. Here, the "unforeseen" costs vary from one Mukhtar to another.

For example, in the case of two large families of 11 members, the Mukhtar charged 1,200,000LBP (equivalent to \$800) to issue birth certificates and identification [Ta'arif] certificates. In other words, the Mukhtar charged around 54,000 Lebanese Liras (around \$35) for each document when the total amount should not have exceeded \$10.

In another case, the Mukhtar charged 350,000 Lebanese Liras [\$233] for obtaining from the

religious court a court ruling proving kinship including the newest born child when such a procedure does not usually cost more than 50,000 Lebanese Liras [\$33].

Also, a Mukhtar charged 150,000 Lebanese Liras [\$100] for an identification [Ta'arif] certificate valid for one year. In principle, such certificates do not have time limit. Yet, the Mukhtar on purpose limited the validity of the document so that the individuals are obliged to renew every year and as such have to pay the fees for every renewal.

In addition, many Mukhtars makes it difficult for stateless persons to obtain documentation unless they pay extra fees. They consider this extra as an "advance" to cover the cost of travel and loss of one working day when the General Security or the court summons them to obtain their testimonies. For example, a Mukhtar asked for 125,000 Lebanese Liras (more than \$80) for a birth certificate because "he will be asked by the General Security to testify". Another Mukhtar asked for 150,000 Lebanese Liras [\$100] for a biometric laissez-passer passport for an unregistered individual giving the same excuse.

Furthermore, most Mukhtars go beyond their role and responsibilities by acting as middle persons between the individuals and the relevant authorities in matters related to registration of personal status events. They

charge large sums of money in exchange for such services. Sometimes, they are the cause of non-registration of the concerned individuals.

In one case concerning the registration of children, the Mukhtar took from the parents the original documents to registered their children's birth in their father's civil records administratively. Four years later, the parents discovered that the children are not registered and the Mukhtar lost three of original birth certificates. The family had to pay double to obtain new documentation and had to resort to court to register their children.

In another case, the Mukhtar charged a naturalized father 12 million Lebanese Liras [\$8,000] to file a registration lawsuit for his five children born after his naturalization. The understanding between the father and the Mukhtar that this sum covers all expenses and costs for all the stages from obtaining the necessary documentation, his fees, filing the lawsuits, and the DNA test. However, the lawsuit was suspended as the Mukhtar refused to pay the DNA test fees.

#### Unlawful Religious Courts' fees

To file registration or nationality lawsuits, stateless individuals have to obtain proof of marriage and kinship from the competent religious courts. Here too, the fees and procedures are not unified among courts and "unforeseen costs" is quasi systematically incurred. Some Sunni Shari'a Courts, if the marriage was concluded by a Sheikh, issue a new "marriage" contract before ruling proof of marriage, which cost ranges between 100,000 and 125,000 Lebanese Liras [\$66-\$83]. The ruling of proof of marriage and kinship also varies from court to court. The total cost of the ruling, including instituting the lawsuit, stamps, and issuing the ruling usually ranges between 100,000 and 150,000 Lebanese Liras [\$66-\$100] for one ruling depending on the court. Some courts demand payment separately for proof of marriage and proof of kinship despite the fact that both are issued in one ruling. Further, the cost of rectifying a Shari'a Court ruling (correcting the date of birth, the name, or adding a child to the ruling proving kinship) is almost equal to the cost of issuing a new ruling. The Christian religious courts usually charge around 300,000 to 350,000 Lebanese Liras [\$200-\$233], depending on the sect. However, rulings from Christian religious courts are only requested in exceptional cases such as legitimation of affiliation for a child born before the date of marriage.

#### Burden of the Notary Public fees

The cost of the power of attorney issued by the notary public has become a real burden for the stateless population after the issuance of the Amendment of Public Notaries Bylaw in 2017 that doubled the power of attorney fees.<sup>65</sup> Before that date, the cost varied from one Notary Public to another and ranged between 70,000 or 80,000 Lebanese Liras [\$47-\$53]. If the procuration involved more than one person, the first signature costed around 80,000 Lebanese Liras and the second signature a symbolic amount not exceeding quarter of the first signature. After the Budget Law of 2017, the rate for each signature became equal. For example, the cost of a power of attorney for an average stateless family of 5 members has become 400,000 Lebanese Liras [\$267].

Furthermore, the power of attorney must be authenticated at the Bar

Associations. Here too, the cost varies between the Beirut Bar Association (which charges around 75,000 Lebanese Liras or \$50 per power of attorney) and Tripoli Bar Association (which charges around 110,000 Lebanese Liras or \$75 per power of attorney). Such authentication is repeated every time the lawsuit moves to a higher instance appellate and cassation courts and upon execution of court orders, and the client pays authentication fees all over again.

#### Burden of Lawyers' Fees

Lawyers' exaggerated fees constitute one of the major obstacles that discourage individuals willing to file registration or nationality lawsuits. Registration and nationality lawsuits are of unspecified value.

Although legal representation is not mandatory in civil status lawsuits, the majority of the stateless persons are not aware that they may file a lawsuit on their own. But regardless, in reality almost all are not capable to prepare their legal file and handle the court proceedings by themselves.

Article 16 of the Code of Ethics of the Law Profession<sup>66</sup> stipulates that "attorneys shall specify, by means of a clearly written agreement, his/her fees in advance with the client, unless impeded by special circumstances," and that the attorney shall "specify his/her remuneration moderately, taking into account the financial situation of the client and the effort he/she expects the lawsuit demands." The findings of our study show that in most cases none of these principles are followed. For both registration and nationality lawsuits, lawyers charge fees that ranges between \$5000 to \$15,000. Sometimes, lawyers charge additional cost according to the number of individuals in the lawsuit. And none of the lawyers had a written agreement with the clients specifying her/his fees and the court proceedings costs or issue receipts for payments received. Clients find themselves sometimes not able to prove the amount they had paid the lawyers, particularly if needed in case the lawyers ask for additional payments without clearly explaining the reason and purpose, or if a disagreement arise between the lawyer and the client.

A number of lawyers tend, unethically, suspend legal representation and consequently the court proceedings if their clients are late in settling due payment or the additional fees requested instead of proceeding with the lawsuit and then filing a claim to obtain the specified remuneration. They also deny their clients a copy of their judicial file unless they pay additional amounts which exceed the cost of photocopying by miles.

Although the DNA test aims to establish the paternal biological affiliation of the child in order to register her/him under the father's personal civil event record, most courts require a DNA test with the mother too.

#### Burden of the DNA Test cost

In registration lawsuits DNA tests has become systematically ordered by the Single Judge in recent years. It involves, the laboratory fees, the court clerk transportation allowance to accompany the individuals to the laboratory when taking blood samples, photograph them, confirm their identities, and collecting the test results and delivering them to the court; and the cost of transportation of the Applicants themselves. Regardless of the conflict between the religious courts and civil jurisdictions on matters of personal status issues which is beyond our study here, we

will limit our review to highlight the number of issues related to the cost of the DNA tests.

First, the DNA test is high and almost unaffordable, particularly for the extremely poor stateless families. In general, the total cost of DNA test for a small family composed of a mother, father, and one child would be around 917,000 Lebanese Liras (\$305). In reality, most families are made of at least five children as an average, the cost reaches around 1,673,000 Lebanese Liras (around \$1115) excluding the fees of the forensic doctor.

Although the DNA test aims to establish the paternal biological affiliation of the child in order to register her/him under the father's personal civil event record, most courts require a DNA test with the mother too. This aims to confirm the veracity of the motherhood.<sup>67</sup> In addition to the added cost of the DNA test, sometimes it complicates the matter if the mother is in hiding or lives in a place unknown to her family or outside Lebanon (if she is a foreign citizen deported to her country).

Sometimes, if the father is deceased, the court orders the DNA tests to be conducted with two uncles to ensure scientific accuracy instead being satisfied with one only. One questions the scientific necessity of two uncles as this double twice the laboratory fees of already unbearable cost.

Second, the courts limit the recognition of a few laboratories where DNA test to be done that are all located in Beirut. This incurs heavy additional transportation cost for individuals coming from outside Beirut, and more so for those coming from remote rural regions.

Third, the laboratories do not have unified standardized prices for DNA cost. For examples, Rafik Hariri University Hospital and ATL laboratories charge 150\$ per individual, and the Medical Genetics and Genomics Center at Saint Joseph University the cost is 225\$. The cost doubles if the test is being done with the uncle or cousins. The Court of Cassation systematically request the DNA test to be done in the most expensive laboratory.

Fourth, the allowance ordered by the Single judge to be paid by the Applicants to the court clerk to cover cost of her/his transportation to

attend the DNA test in the laboratories is not unified. The average allowance ranges between 250,000 and 500,000 Lebanese Liras (equivalent to \$167 & \$333). This allowance, regardless of the location of the court and the distance from to the laboratory, is extremely high compared to the actual transportation cost or the employee's salary per day.

Furthermore, court clerks do not execute the DNA test ordered by the court immediately. They make the Applicants wait till they have several orders to accompany all in one day. As such, they obtain several allowances and spend transportation and meal in one day only. As such, accompanying Applicants to DNA tests has become a secondary source of income for the court clerk and the amounts he/she receives per month much exceed his/her monthly salary.

In addition, sometimes the judge specifies fees to be paid by the Applicants for an expert (forensic doctor) in order to write the DNA test report. This is added unnecessary procedures and financial burden as the forensic doctor usually copies the report from the test results issued by the laboratory specialists.

However, a good practice was shown in one of the registration lawsuits. The judge ordered the DNA tests in late 2012 and did not assign a court clerk to accompany the Applicants but rather asked the laboratory to send the court the required photographs along with the fingerprints and a detailed report of the testing.

Also, worth noting that courts in the North and in Akkar have begun in 2018 adopting a unified amount for the court clerk allowance, though still high. This is usually set at 350,000 Lebanese Liras (around \$233, regardless of the distance such as from Qoubaiyat, Halba, Tripoli, or Zgharta and the time required for travel.

### Long Delays in Judicial Processes

"Justice delayed is justice denied" is a legal maxim which highlights the importance of respecting delays in fair and effective judicial proceedings. Article 14 paragraph (c) of the International Covenant on Civil and Political Rights ratified by Lebanon stresses states: "the right [of everyone charged with a criminal offence] to be tried without undue delay". The general comments of the Human Rights Committee stresses on the criterion of "undue delay" and stipulates that "in order to make this right effective, measures must be taken to ensure that the trial proceeds without undue delay both in Courts of First Instance and Courts of Appeal."<sup>68</sup>



The general comments of the Human Rights Committee stresses on the criterion of "undue delay" and stipulates that "in order to make this right effective, measures must be taken to ensure that the trial proceeds without undue delay both in Courts of First Instance and Courts of Appeal."

The principle of fair trial is stipulated in the Lebanese Code of Civil Procedure (CCP) that considers undue delays in issuing a ruling or judgement as a denial of rights and justice.<sup>69</sup> In court proceedings, the legal notification is a cornerstone to ensure due process during all the judicial phases. The date of receiving the legal notification initiates the delays allowed to submit the reply to the court such as the counter argument, expert reports, submission of appeal, in addition to other processes.

The Lebanese CCP does not set clear time limits for notifying the litigants of procedures and processes related to the lawsuit. It sets, however, delays for judicial legal notification processes and procedures carried out by the judicial administration. Article 364 emphasizes the role and responsibility of the judge in managing proceedings in such a way that the judge "shall ensure the proper conduct of trial, and for that purpose, shall have the right to specify time limits and take the necessary measures". Article 451 states "The Court Registrar or clerk shall provide receipts of all judicial documents presented to him/her and shall send the copies of the documents for notification within a time limit of twenty-four

hours' maximum. Any delay with no valid excuse shall subject the Court Registrar or clerk to disciplinary action." and Article 406 add: "The bailiff or person in charge of notification shall submit to the Court Registry the notification report within a maximum of forty-eight hours or else he/she shall be fined by the court an amount ranging between 20,000 and 40,000 Lebanese Liras. The notification papers shall be included in the judicial file." [Unofficial translation].

The Lebanese CCP also specifies the principles of notifying litigants and determines certain measures to be followed in case the party to be notified refuses receiving notification or is unavailable to receive notification. These measures apply for both natural persons and legal entities including the State. In such circumstances, the bailiff shall, by law, leave the notification papers with the person representing the state, and the notification is considered legally complete even if the



representative refuses to sign the notification, and that, in accordance with CCP Articles 399 and 403.

The provisions of the Law Organizing the Ministry of Justice<sup>70</sup> also demonstrate that the intention of the legislator was to ensure that the state receives notification of proceedings, judgements, and rulings promptly. The law specifies measures to be given the entire body of the Committee of Cases the authority to receive the legal notifications of court proceedings and processes in the absence of the President of the Committee as to not incur any delays by limiting this authority to the President only, a matter that implies that no delay in receiving notification should be justified.

The short legal delays and measures for legal notification clearly indicate that the legislators intended that the judicial processes be rapid and fair to all parties.

Delays in notifying the state is one of the main reasons for prolonging proceedings beyond reasonable time and obstructing the “normal” course of justice. In fact, it has become well-known, to the extent that it has become normal, that notifying the state (represented by the Committee of Cases) is an open process.

#### Twisting The Legal Notification Delays

The review of the lawsuits assigned by FRH and the 74 Court of Cassation rulings related to nationality and registration lawsuits issued between 2014-2017 show that in reality long delays is systematic in judicial proceedings at the first instance, appeal, and cassation stages. The average delay ranges between 3 to 19 years. Most of FRH lawsuits, at the time of writing this study, are still before the Single Judge or First Instance courts.

Unjustified and unlawful long delays dominate the judicial processes. long delays are caused by both the litigants and the court. Equally delays occur in registration and nationality lawsuits, though registration lawsuits are relatively quicker than nationality lawsuits. However, in most time, the delays are manipulated to the

advantage of the State that is supposed to be the “noble opponent”, when is acting a litigant, is introduced as a third party, or is intervening in the lawsuit, a matter that constitutes in many cases denial of justice, and shows that “power” prevails over the fundamentals of the principles of the rule of law. In the case of stateless individuals, such delays slow down the process of ending their statelessness and to a certain degree discourage them from initiating lawsuits.

Another unlawful pattern is followed by the courts. They request from the legal representative or the Applicant him/herself to take the notification and deliver it themselves rather than assigning a bailiff as regulated by CCP, Article 398. This allows for the manipulation of time limits and not receiving notification as neither the legal representative nor the Applicant have the authority to leave the notification with the person to be notified, in case they refuse to sign the delivery book and write that the notification has been delivered.

Delays in notifying the state is one of the main reasons for prolonging proceedings beyond reasonable time and obstructing the “normal” course of justice. In fact, it has become well-known, to the extent that it has become normal, that notifying the state (represented by the Committee of Cases) is an open process which is not bound by any time limits and exceeds all legal delays. This pattern is very similar in nationality and registration lawsuits with the variation of the duration of the delay from one type to another. This delay ranges between 6 months to more than 3 years.



The Committee of Cases quasi systematically refuses to receive and/or sign the legal notification. The unofficial given pretext that the short delay does not allow it to complete the study and obtain the opinions of the General Directorate of Civil Status and the findings of the General Security investigation to build its opinion or its counter-argument. However, the Committee of Cases resorts to devious ways to avoid signing the delivery book as it takes the copy of the legal notification and takes it time to prepare and submit its counter-argument months and sometimes

**LEBANESE CODE OF CIVIL PROCEDURE****Article 449**

“The defendant shall present, within fifteen days from receiving notification of the legal complaint brief, a counterclaim responding to the lawsuit as well as all the supporting documents attached to the counterclaim. The latter shall include, in accordance with Article 445, the name and identity of the Applicant and defendant and shall present all demands clearly and in detail in the demands paragraph concluding the counterclaim.”

**Article 452**

“The Applicant shall respond to the defendant’s counterclaim within ten days from receiving notification of the defendant’s counterclaim. Similarly, the defendant shall receive notification of the Applicant’s response and will have the same amount of time to, in turn, issue a response.”

years later. It should be noted that neither the Committee nor the Court itself consider that notification, even if refused to sign, is completed as stipulated by the law.

As mentioned, this is a systematic pattern. We highlight here few examples. In a lawsuit involving the registration of adult children, the judge issued a decision on 12/8/2017 to bring the state as a party in the lawsuit. Yet, the State delayed 13 months to accepted to receive the notification on 27/11//2018. Also, in one of the nationality lawsuits, the legal brief submitted by the Applicants to the court on 24/11/2014 was sent to the President of the Committee of Cases who signed three years later on 5/7/2017. Ironically, throughout the three years that passed before the state officially signed the notification, the Committee of Cases had referred the judicial file to the General Directorate of Civil Status requesting its opinion and to the General Security to conduct their investigation.

In 9 nationality lawsuits, the delay by the state in receiving notification ranged between one year at eighteen months, and in some of them, notification

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hasn’t yet been received at all [up until 31/12/2018]. In three of the lawsuits, the proceedings did not progress at all throughout this time period.

Oddly enough, in other lawsuits, the state’s attorney responded to the lawsuit or submitted a counter argument before the proof of receiving notification was signed or despite the fact that the proof of notification was never issued. For instance, in 4 lawsuits, the state received notification after one year from filing the notification; however, the state’s attorney had presented the counter argument 2-7 months before signing the proof of receiving notification. In two other lawsuits, the proof of receiving notification was not submitted to court until 31/12/2018, more than one year after filing the notification, but the state attorney had submitted the counter argument to court before officially receiving notification. The proof of receiving notification of the legal complaint brief delivered to the state on 14/11/2014 was never submitted to court [according to the transcripts up until 31/12/2018]. Despite that, the state attorney had responded to the lawsuit on 24/8/2015 and there was an exchange of pleadings between him/her and the Applicant attorney in 2016. After submitting the second counter argument, the court received proof of receiving notification of the first counter argument by the Committee of Cases without the proof of receiving notification of the lawsuit.

This pattern is repeated throughout the court proceedings. However, this flawed practice is not exclusive to the State. All parties behave similarly to a great extend be it the State’s attorneys, the client’s legal, and the



Two main matters, among others, that negatively affect the judicial process and impede the normal flow of proceedings are 1) the successive interlocutory decisions; and 2) the long court summer “vacation”.

administration. It is mainly the responsibility of the court, in the first place, to ensure that the trial proceeds normally, fairly, and within reasonable time limits rather than standing hands crossed and letting the proceedings flow without any clear time limit. The court should ensure the proper flow and administration of processes so that each party justly receives its rights without delay. Therefore, it is the court that should specify time limits and take the necessary measures to ensure smooth proceedings.

### Delays in Hearings

The Lebanese Code of Civil Procedure does not specify time limits for the schedules, , with the exception of the judgement session that should be place within six weeks from the closing of trial. However, such provisions are not respected in reality. Judges often do not set short schedule between court hearing sessions on a minimum average of six months’ intervals, and quasi regularly this interval is repeated several times. This is due to the fact that the judges a wait receiving the different parties replies counter-arguments, or the execution of the interlocutory decisions, or receiving the investigations reports of the General Security, or the results of the DNA test when requested.

Two main matters, among others, that negatively affect the judicial process and impede the normal flow of proceedings are 1) the successive interlocutory decisions; and 2) the long court summer “vacation”.

The issuance of successive interlocutory decisions for different reasons, such as once for clarifications, and another time requesting submission of additional documentation, instead of issuance one that include all requests to be executive in one time. As for the second matter, in “normal” time, the courts’ summer “vacation”, during which the courts refrain from scheduling hearings, stretches from mid-June till mid-September making the judicial recess practically stretched over a period of four months rather than two months [starting 15 July till 15 September] every year as per Decree No. 2879 of 29/12/2009.<sup>71</sup>

For example, in a registration lawsuit, the legal representative requested a hearing, eight months after the court received the DNA test results and 4 months after the General Security conducted the investigation. The court scheduled the hearing three months later.

Furthermore, in a nationality lawsuit, the court hearing to issue the final ruling or judgement was adjourned three months after the closing session of the trial in violation of CCP Article 498 mentioned above.



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**IN CONCLUSION**

## CONCLUSION AND RECOMMENDATIONS

The findings of this study show the struggle the stateless persons endure in their attempt to end their statelessness in courts throughout the whole process starting from building their legal file to court proceedings and execution. The face both subjective and objective obstacles that hinders them from reaching the solution.

The most important one is the lack of reliable and hard evidence to prove their right to the Lebanese nationality. The majority of stateless individuals do not possess the necessary proof of evidence to support their cases whether related to accurate factual information to possession of related documents that substantiate their claimed facts, especially if these factual events date back to distant times as is the case for most stateless individuals who are descendants of stateless ancestors. One of the reasons why stateless persons lack such proof is due to their oral culture and way of living before the creation of state rules and system. The majority live in rural areas and are illiterate. They did not keep copies of their documents as they did not know their importance and potential use in the future; some did not even have any documents originally. As such this is extremely or quasi-impossible to provide evidence for those who inherited their statelessness from their ancestors that go back to around 100 years today. This the case of the majority who are born in Lebanon but their birth was assisted by unofficial midwives, hence no birth notification, they cannot prove one main legal condition, i.e., born in Lebanon. They have to go through a long way to provide witnesses to give formal statements and hereto face obstacles and difficulties to find individuals still alive who witnessed the events of birth in Lebanon. This is further aggravated with the absence of a national population data information. The lack of proof is reflected in the entire course of the lawsuit, reaching the final decision, which usually lacks a strong realistic, or even legal, basis – especially in relation to denying the individual the nationality – due to the lack of an integrated mechanism to gather proof and information from various sources by the court, along with the agencies and authorities assigned with helping it build the case.

However, for registration lawsuit, the DNA tests requested systematically by the courts today is being used as of proof of evidence of whether or not the biological filiation exists, regardless of the strength of the existing evidence and whether or not filiation is contested. Yet, this method is creating a kind of dual legal system. On the one hand, the Shari'a Court rulings still constitute a key document required in almost all registration and nationality lawsuits; on the other hand, their probative

value is invalidated if it contradicts the results of DNA tests. This is clearly contrary to the system of civil status laws which give religious courts the authority to decide upon civil status matters knowing that such courts follow the principle of the presumption of paternity, meaning that any child born within the framework of marriage is considered to be the child of the husband unless the latter denies kinship under very specific conditions and in exclusive cases only.

In addition, the lack of information regarding the legal procedures is quasi common among laypersons in Lebanon. This is more acute when it comes to stateless persons who are marginalized and do not benefit from any support system. Rare are the individuals that know the rights they are entitled to and how, if any, they can access and obtain them. There are no official sources of information for the general public as there is no national mechanisms to disseminate information to the public and enhance the ability to access information. But contrary to what it should be, non-specialists give the wrong advice. Due to lack of official dissemination of information many stateless persons rely on advices from non-experts who give them inaccurate or incomplete advice that have negative consequences and results. As such, instead of solving their situation they fall into more problems and difficulties to redress their judicial files.

Even if stateless persons decide to build their legal files to submit a registration or nationality lawsuit, they are hindered to proceed when they realize the unaffordable relatively high cost of litigation and lawsuits, starting with the cost of DNA tests to obtaining all the documents requested by the different authorities, and alongside the expensive attorney fees, let alone the time they need to dedicate to follow the long court proceedings that entails absence from work and extra transportation costs.

All these costs have to be taken in charge by the individuals as there is no State legal aid system in Lebanon available to these individuals in a methodical and systematic manner to lessens the chances of reducing the burden of high costs. The lack of State legal aid system and the high cost of litigation hinders many stateless persons from ending their statelessness through the only available legal solution today.

### Judicial Proceedings with Indefinite Time Limits

From the objective factors' perspective that hinders stateless persons from submitting registration or nationality lawsuits, especially nationality lawsuits, as the State is a Party in the lawsuit, is the long indefinite time limits of the court proceedings amounting to several years in many cases.

The long court proceedings are due to many reasons related to how the judicial system is functioning today. One of the main reasons is the way the courts conduct their investigation. They rely heavily on the security services. Yet, the court notification requests do not specify the core substantive matter to investigate nor give a specific deadline to receive the investigation reports. These requests may take months, and sometimes more. Further, despite the long period to complete the investigation, the investigations report rarely provide any additional or new information. as regards the elements presented in the case, and

they do not include any parties, authorities, or individuals who might possess data and information with historical or social value as to benefit the case. This also applies to investigations requested by the state while it is preparing its counter argument in nationality lawsuits because, in most of the cases, these investigations do not yield any new information. Furthermore, the Committee of Cases often claims that the investigations have no reliable probative value, especially if the investigations do not serve the interests of the state. However, in nationality lawsuits, courts conduct investigations by themselves although they are usually not extensive.

Another reason for the long unreasonable court proceedings is related to the State attitude in delaying receiving courts' notifications and submitting its counter arguments. The State using its power manipulates the notification procedures, in violation of legal principle of fair trials, in order to give itself more time to present its counter arguments. This leads to delaying all processes, such as interlocutory decisions, hearings, investigations, and others, to indefinite time limits.

### Futile Responses and Counter arguments

Another objective factor is related to the court proceedings with regard to the substance of the lawsuits, particularly in nationality lawsuits. In many cases the State's attorney counter arguments are void of substantive legal grounds, or they do not relate to the facts. This indicates that the State treats these lawsuits lightly and seems to aim only to systematically refuse the requests regardless if they are eligible or not.

In Conclusion, stateless persons today have one available solution to end their statelessness - the legal solution. Yet, this solution is available in legal books but in practice it is a tedious and hardship solution. The scope of the obstacles and difficulties makes stretching from lack of information about the judicial proceedings and procedures; the lack of proof evidence to support their claim due to lack of the necessary adequate documentation; the lack of financial means to bear the cost of lawyers and court proceedings and particularly the cost of DNA tests; the long delays of court proceedings and the different interpretations of laws by different courts makes it quasi-impossible and/or very difficult for the Applicants to obtain a fair court ruling, which demoralize the Applicants and force them to lose faith that they have the opportunity to end their statelessness through the courts. Therefore, in addition to the need to address the issues related to the courts proceedings to ensure fair and just trials, it becomes obvious that although the judicial solution

is available to the individuals, it is clear that this solution is not enough as it requires that the Lebanese authorities develop a comprehensive legal framework that tackles the phenomenon from all legal, social, and economic angles with the aim to prevent and eradicate statelessness in Lebanon.

Therefore, there is an urgent need for the Lebanese State to put the issue of statelessness as a priority on its political agenda, and that, as a first step to set a clear policy to shift the focus from the judiciary towards prevention and protection from statelessness

### We therefore recommend the Lebanese government to:

- 1) Develop a legal protection system that include stateless identification and determination System to identify the profile and volume of stateless persons and provide them with documents that prove their identity and give them as minimum right of legal personality and identity. This shall allow the Lebanese government to identify the stateless persons and develop necessary policies and comprehensive solutions.
- 2) Enact a comprehensive, unified, modern, and automated system for the registration of civil status events that ensures the incorporation of all events for all regardless of nationality or legal status.
- 3) Develop State Legal aid system available to all marginalized and vulnerable populations. The system should cover all legal proceedings such as DNA tests requested by the judges, Sharia prove of marriage and kinship;
- 4) Establish legal aid advisory bureaus in all regions to advise individuals on laws and procedures related to matters that concern them.

### In the immediate future, the Lebanese government should:

- 5) Issue a law suspending the birth registration legal delays giving a two-year grace period for individuals who neglected to register on time to regularize administratively their late birth registration.
- Ensure that the judiciary respect and implement the fair trial principles, particularly the respect for the legal delays for acknowledging case submission for their reviews and delays to send their replies.



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<sup>2</sup> Article 1 of the Convention Relating to the Status of Stateless Persons, adopted on September 28, 1954 by a conference of plenipotentiaries convened by the Economic and Social Council, in Resolution No. 526 [D-17] of April 26, 1954, <https://www.ohchr.org/AR/ProfessionalInterest/Pages/StatelessPersons.aspx>

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<sup>4</sup> MAQ cases in Lebanon, Frontiers Ruwad Association Report of the second session of UPR, 2015, [http://ruwadhoukuk.org/pdf/UPR\\_FR%20STL%20Submission\\_Translation\\_AR\\_Draft\\_FINAL.pdf](http://ruwadhoukuk.org/pdf/UPR_FR%20STL%20Submission_Translation_AR_Draft_FINAL.pdf)

<sup>5</sup> Decision 2825/1924, Decision 15/1925, Law of 31/1/1946

<sup>6</sup> Law on Civil Registration of Personal Status Documents (no number), dated 7/12/1951

<sup>7</sup> Decision 15/1925, Article 1 [3]

<sup>8</sup> Decision 15/1925, Article 2

<sup>9</sup> The government representative are the members of Working Group on Statelessness that was formed in 2012 at the initiative of Frontiers Right. Its members include representative of the Ministry of Interior and Municipalities – the General Directorate of Personal Status, the General Directorate of General Security, The Ministry of Justice, the Ministry of Social Affairs, the Ministry of Education and Higher Education, the Ministry of Public Health, UNHCR, OHCHR, UNICEF and Frontiers Rights Association.

<sup>10</sup> The Lebanese nationality was established by the French High Commissioner Decision/Law # 2825 dated 30 August 1924; published in the Official Gazette # 1804 on 30/09/1924.

<sup>11</sup> Decree #8837 dated 15 January 1932 entitled the “formation of the residents and migrants Lebanese Population Census Committees; published in the Official Gazette # 2606 on 18 January 1932.

<sup>12</sup> For more details on the legal ground of the different origins and causes of statelessness in Lebanon, you can read “Invisible Citizens” Arabic version link: <https://www.ruwadhoukuk.org/pdf/InvisibleCitizens.pdf>

<sup>13</sup> In our sample, the majority are Syrian women and migrant domestic workers of different nationalities.

<sup>14</sup> Article 13 of the Law of the Organization of the Ministry of Interior and Municipalities, Decree No. 4082 of 14/10/2000, official Gazette Issue 50, 2/11/.

<sup>15</sup> Prime Ministry Memo No. 51 of 1993 which required a prior approval from the General Security before concluding the religious marriage of Lebanese Muslim and Druze man to a foreign woman.

<sup>16</sup> Regularization fines of 300 thousand L.L (around 200 \$) per person/per number of years.

<sup>17</sup> This is the case particularly for Syrian couples.

<sup>18</sup> Decree-law No. 34 of 26/8/1932 regulated the travel of nomads on Lebanese territory, and considered every person travelling in Lebanon with no place of residence or a particular home a nomad. These nomads were required to have an id issued by the Police – individually, as well as for the head of the family on behalf of all his family and children below 13 years of age – which shall include personal evidence requested by whoever was in Lebanon when this decree entered into effect. Nomads who come from outside Lebanon cannot move inside it unless they present their ID and the correct papers. Decree No. 34 of 26/8/1932 “regulates the travels of nomads on Lebanese territory”, official gazette issue 2708 of 12/9/1932.

<sup>19</sup> Those who met the census conditions and did register were considered Lebanese citizens.

<sup>20</sup> The Seven Villages separated from Lebanon and joined Palestine by virtue of the Paulet-Newcombe Agreement between France and Britain in 1923. Its residents were therefore considered Palestinians during the signing of the Treaty of Lausanne in 1923, although, according to the Treaty and Articles 3 and 4 of Decision No. 2825, they had the right of option between the Palestinian nationality and the nationalities of the countries that were established after the dissolution of the Ottoman Empire, including the Lebanese nationality (provided that they move their place of residence to Lebanese territory), within a time limit that was constantly renewed until 1958.

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<sup>21</sup> FRH Legal services and assistance is provided based on selection criteria such as poverty, illiteracy, ignorance of legal and judicial procedures or the claimant being a founding born out of wedlock or born

to unknown parents or a child of a deceased father and a non-working mother.

<sup>22</sup> Article 11 and 12 of the Law on Registration of Civil Status Documents, 7/12/1951, Official Gazette issue 50 on 12/12/1951

<sup>23</sup> Code of Civil Procedure, decree-law no. 90 of 16/9/1983, official gazette issue 40 of 6/10/1983

<sup>24</sup> Ibid, Article 86, Article 552, and Article 594

<sup>25</sup> Ibid, Articles 36, 38, 40, and 45

<sup>26</sup> Articles 23 and 29 of the Law on Registration of Civil Status Documents which require the wife to have a record that should be added to the marriage certificate and to be transferred to the husband's record (place of residence according to the text), which is not possible in the case of an unregistered wife.

<sup>27</sup> In accordance with jurisprudence consistency in relation to ex post facto of registration judgments, for example.

Civil Court of Cassation, Fifth Chamber, Decision No. 17 of 8/2/1996, available on <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=59096&type=list>

Civil Court of Cassation, Fifth Chamber, Decision No. 82 of 17/6/1997, available on <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=56395&type=list>

Civil Court of Cassation, Fifth Chamber, Decision No. 5 of 24/11/1983, available on <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=68187&type=list>

<sup>28</sup> Article 15 of the Law of 9/12/1951 related to Registration of Civil Status Documents

<sup>29</sup> Court of First Instance in Mount Lebanon, Decision no.176 dated 14/7/2005. Published in Justice Journal, issue no.2, 2006; Single Judge in Beirut, Decision n°.1 dated 1/6/1954, Published in the Lebanese Judicial Bulletin. 1954

<sup>30</sup> The administrative registration of a child born out of wedlock under his mother's record dated 19/9/2016, and with the help of Frontiers Ruwad Association, took more than a year and went through several investigations until it finally reached the Director General of Civil Status who gave his approval on 16/10/2017 for the child's registration. The child obtained an individual civil status extract for the first time on 20/11/2017 upon the approval thereof.

<sup>31</sup> Civil Court of Cassation, Third Chamber, Decision 52 of 29/11/1966, available on <http://www.legallaw.ul.edu.lb/PDF/Jurisprudence/DocumentsBefore2000/Tamiez/2405.pdf>

<sup>32</sup> Acting General Directorate of Civil Status statement during the Working Group meetings on statelessness on

January 14, 2013.

<sup>33</sup> Committee of legislation and consultations, consultation No. 1671/1995 dated 23/06/1995 published in the encyclopedia of legislation and consultations for president Choukri Sader, page 1352.

<sup>34</sup> The Law on the Protection of Juveniles who violated the laws or who are in danger, Law No. 422 dated 06/06/2002, official gazette issue 34 on 13/06/2002

<sup>35</sup> Dr. Sami Abdallah, the Lebanese nationality compared to the Syrian Arab and the French nationality, second edition 2004, page 99.

<sup>36</sup> Article 13 of Decree No. 8837/1932.

<sup>37</sup> The Committee of legislation and consultation, consultation number 836/2011 on 28.12.2011 [unpublished]

<sup>38</sup> The Court of Appeal in Mount Lebanon, first chamber, order 254, dated 31/07/1974, judicial issue 1974

<sup>39</sup> The Court of Appeal in Beirut, sixth chamber, order 289, dated 25/02/1974, judicial issue 1974

<sup>40</sup> The civil court of cassation, third chamber, order 23 dated 21/06/1983, available on <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=62102&type=list>

<sup>41</sup> Civil court of appeal, third chamber, order number 22 dated 21/06/1983, available on <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=62103&type=list>

<sup>42</sup> The Committee of Legislation and Consultations, Consultation No. 836/2011 dated 28/12/2011 [unpublished]

<sup>43</sup> The peace treaty signed with Turkey in Lausanne on 24/07/1923 [the Treaty of Lausanne], article 30, available on the World War I archive site [https://www.lib.byu.edu/index.php/Treaty\\_of\\_Lausanne](https://www.lib.byu.edu/index.php/Treaty_of_Lausanne)

<sup>44</sup> The treaty of Lausanne, articles 31 and 32

<sup>45</sup> Ottoman Nationality Law, dated 19/1/1869

<sup>46</sup> High commissioner Decision 2825 related to Turkish people residing in the State of Greater Lebanon and Syria, dated 30/08/1924, Official Gazette issue 1804, 30/09/1924

<sup>47</sup> Law No. 68 of 04/12/1967 on "Considering the State Represented by the Public Prosecution's Office in all Nationality Lawsuits", Official Gazette issue 99 dated 11/12/967.

<sup>48</sup> Law No. 28 of 10/02/2017, official gazette issue 8, 16/02/2017

Article 13 of Decree No. 8837/1932

<sup>49</sup> Civil Court of Cassation, Fifth Chamber, Decision No.

108, 20/07/2000 available on <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=56737&type=list>

<sup>50</sup> For example, civil Court Of Cassation, Third Chamber, Decision No. 22 of 21/6/1983, available on <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=62103&type=list>

<sup>51</sup> The Court of Appeal In Beirut, Decision No. 984, 09/07/2009 [unpublished]

<sup>52</sup> United States Institute of Peace, Necessary Condition: Access to Justice, available at <https://www.usip.org/guiding-principles-stabilization-and-reconstruction-the-web-version/rule-law/access-justice>

<sup>53</sup> As per Article 601, Code of Civil Procedures

<sup>54</sup> Article 21 of decree 8837/1932.

<sup>55</sup> Decision No. 68 of 04/12/1967. Official Gazette issue No. 99 dated 11/12/1967.

<sup>56</sup> See, for example, the Civil Court of Cassation, Fifth Chamber, Decision No. 78/2003 dated 30/4/2003, available at: <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=87796&type=list>

<sup>57</sup> See, for example, the Civil Court of Cassation, Third Chamber, Decision No. 2 dated 10/04/1986 available at: <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=61870&type=list> and the Beirut Civil Court of Appeal, Third Chamber, Decision No. 1449, Original Case No. 424, available at: <http://legallaw.ul.edu.lb/RulingFile.aspx?RulilD=74191&type=list>

<sup>58</sup> Lebanese Code of Civil Procedure, Decree-Law No. 90 dated 16/09/1983, Official Gazette issue No. 40 of 06/10/1983.

<sup>59</sup> Including Somalia and Ethiopia.

<sup>60</sup> It is noteworthy that registering the birth of Lebanese children from an unregistered father [Maktoum alQayd] should, in principle, occur administratively if marriage was marked on the record/register of the Lebanese mother, as was the case for years at the Civil Status department. However, such cases are now being referred to the judiciary considering that the Lebanese nationality follows the father's bloodline and the father is unregistered [according to an expert who was previously an employee at the Civil Status department].

<sup>61</sup> Law on Mukhtars and Mukhtar Councils, dated 27/11/1947, Official Gazette, issue of 03/12/1947, Articles 25 and 25 [1].

<sup>62</sup> Code of Ethics of the Law Profession: <http://bba.org.lb/content/uploads/Syndicate/141208091442754~ethique%20professionel-%20arabe.pdf>

<sup>63</sup> Article 17 of Law on Mukhtars and Mukhtar Councils, dated 27/11/1947, Official Gazette Issue No. 49 of 30/12/1947.

<sup>64</sup> Decree Specifying the Fees the Mukhtar May Charge for Certificates, Decree No. 12921 of 30/08/1948 amended by Decree No. 2262/1992, Official Gazette No. 11 of 12/3/1992.

<sup>65</sup> Table [A], Annex – Public Notaries Fees, Amendment of Public Notaries Bylaw, <http://77.42.251.205/ClarificationsNoteDetails.aspx?id=16817&language=ar>

<sup>66</sup> Lawyers Code of Ethics, <https://www.nl-bar.org/Article?NID=1107>

<sup>67</sup> This is the opinion provided by judges in meetings with Frontiers Ruwad in 2017.

<sup>68</sup> Human Rights Committee, 21st session [1984], General Comment No. 13, Article 14: Administration of Justice. [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/INT\\_CCPR\\_GEC\\_4721\\_A.doc](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_GEC_4721_A.doc)

<sup>69</sup> Article 4 of the Lebanese Code of Civil Procedures.

<sup>70</sup> Decree No. 151 of 16/9/1983, Official Gazette Issue No. 45 of 10/11/1983

<sup>71</sup> Decree No. 2879 of 29/12/2009, amendment of Decree No. 2140 of 3/6/2009 [amending the judicial recess], Official Gazette issue No. 1 of 7/1/2010.

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**FRONTIERS RIGHTS**

## **Frontiers Ruwad in Brief**

Frontiers Ruwad is an association that strives to defend the basic rights of marginalized groups in Lebanon, with particular focus on stateless persons, refugees, and emigrants.

Its mission is to promote justice as well as respect for human rights and the dignity of emigrants and stateless persons.

The objectives of Frontiers Ruwad include [1] promoting legal protection, [2] achieving access to judicial and administrative justice, and [3] ensuring that Lebanese authorities respect the rule of law and fundamental human rights.

The main activities of Frontiers Ruwad include providing legal advice and specialized training for the various stakeholders and groups concerned, documentation, research and publication of studies, and building dialogue with official bodies.

Frontiers Ruwad is a member of several international networks specialized in combating statelessness and protecting refugees.