

**The Current Status
Of The Lebanese Nationality And Its Future
In Light Of The Presidential Decree # 5247,
June 20, 1994**

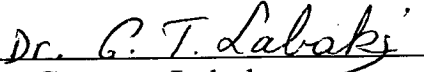
By
SABINE Y. LABAKY

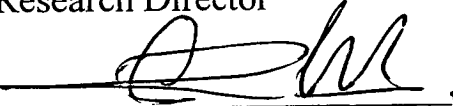
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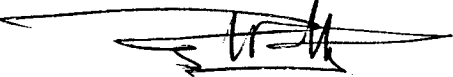
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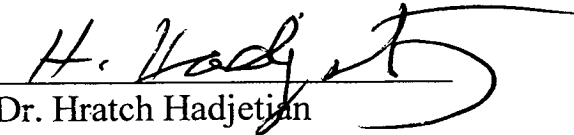
**Master of Business Administration
in
International Affairs and Diplomacy**

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I dedicate my first work
To my father and my mother.

Your daughter,
Deep regards

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For all of them, my sincere regards,

Sabine Y. LABAKY

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ABSTRACT

The Current Status Of The Lebanese Nationality And Its Future In Light Of The Presidential Decree # 5247, June 20, 1994

by

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Nationality issue goes back to the early dawn of mankind. It was formed with the creation of state. Therefore, nationality is directly related to the municipal law of each and every state. Nationality problem arise from these different nationality definitions. Some of these problems were dealt on international basis; however, no supreme power could implement these solutions whatsoever beneficial.

Lebanon is one of the states that is still dealing with nationality issue. Lebanon has an old body of rules taken from the French legislation and was not yet adapted to the Lebanese situation which affect Lebanon negatively.

Until nowadays, the Lebanese government did not reach a final solution to the existing gaps in the Lebanese legislation regarding nationality.

This research looks in the Lebanese nationality problem from different points of view. It analyses the outcome of the new naturalization law issued under decree n°5247 and its impact on the Lebanese society. Besides, it studies the case of the Lebanese natives in the world as regards to their reintegration in the Lebanese nationality.

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**CHAPTER I
GENERAL PRINCIPLES**

INTRODUCTION

Introduction

The history of nationality goes back to the early dawn of mankind. At first, there was no legal intercourse whatsoever between the entities or groups. Nationality as related to tribes in its initial stage made no distinction between men other than distinction between “foreign” and “own”¹.

After that, with a beginning of a community between the “groups” or “nations”, nationality, as a concept of international laws, began to arise, and nationality laws began to form functional rules.

¹ Van Panhuys. “The Role of Nationality in International Law”, p.231

In its later form, a real community of the law formed as new societies came into being. The nationality of these well organized communities gradually reduced to the level of a state recognized internationally and subjected to the law of nations.

Since World War I, however, the community of nations became increasingly aware of the need to safeguard the minimal rights of the individual. In consequence, Human Rights became a matter of vital concern to the “traditional subjects of international law”¹, i.e. states, and the individual begun to emerge, to some extent at least, as a subject of that law.

However, difficulties remained in implementing the adopted decisions effectively and efficiently on the ground, especially to those detached or unexisting territories (states). The question of nationality shaped and influenced the content of political clauses, peace treaties, and conventions².

Indeed, nationality problems remained especially after the two World Wars when international boundaries were redrawn, resulting either in annexation, deletion, or even creation of new states. The phenomena of “collective naturalization” was the direct consequence of international boundaries modifications³. Therefrom, change occurred in nationality regulations of its “ressortissants” (subjects of ruler) and “People’s right to decide for themselves” was adopted⁴. Hence, we face two groups of nationality problems: from one part those who were annexed to already existing states, and from the other part those who formed a new one. Lausanne

¹ Von Glahn, “Law among Nations”, p.235

² Indeed, many are the conventions regarding nationality, but few entered into effectiveness.

Some Peace Treaties that tackled the question of nationality are:

- Lausanne Treaty of July 24, 1923
- Franco-Turc Treaty of May 23, 1937

Some of the conventions related to nationality are:

- The Hague Convention of April 12, 1930
- Geneva Convention of 1951
- United Nations of September 28, 1954

³ Ghali, “Les Nationalités Détachées de L’Empire Ottoman à la suite de la Guerre”, p.15

⁴ “Le droit des peuples à disposer d’eux-mêmes” is not a simple statement: it is an imperative principle that if stastemen are going to ignore it, is going to be at their expenses ... Any territorial regulation done after this war should be in the best interests and benefits of the population in question, and not a compromise between the rival nations.” President Wilson, cited by R.H. Lord (Ghali, p.17).

Treaty gave birth to new states, such as Lebanon and Syria, and thus gave birth to new nationalities

This principle of “people’s right to decide for themselves” gave the right to people to chose the state they want to be annexed to, especially to those belonging to the same race, and hence restricting on absolute sovereignty theory of the state. In short, this situation created two types of difficulties: political and judicial ones, especially regarding territories detached from the Ottoman Empire. The political difficulties resulted from states, such as Lebanon and Syria, that were still under French mandate and were fighting for their independence. The judicial difficulties surfaced from the inexistence of these states before the war, and thus inexistence of nationality law. As a result, they had to adopt an already existing foreign system to the local needs and traditions. Beyond this fact, advantages and disadvantages of such adoption and implementation will be studied and analyzed in the case of Lebanon, from chapter II until the end.

Elements of the State

It is very critical to understand the fundamentals of nationality, especially in relations to the ruled, the ruler, and the land which constitute an entity known as a state. A state “is a legal entity recognized by International Law”¹. For nationality implies the existence of an internationally recognized state and the disappearance of that state will cause the disappearance of the corresponding nationality².

For a state to exist, it must fulfill the following elements: personal, territorial; and governmental.

¹ Von Panhuys, “The Role Of Nationality in International Law”, p.71

² Encyclopédie Dalloz, Nationalité, section 1^{ère}, article 1, §5

Those composing elements, which are a starting point not introduced the law, but presupposed by it, therefore are:

First, the state should denote a physical presence of a working and well organized community. In the absence of a permanent population, it is difficult to establish the existence of a state. This is also known as personal sovereignty¹.

The second criteria is the land where this stable community can operate. By definition, state should have defined frontiers with its neighbors and must acquire an international recognition. However, with the daily conflicts over such an issue, fully defined borders are not a prerequisite for the recognition of a state. This kind is known as territorial sovereignty.

The third criteria is the government that has an effective control over the territory and people living in it, i.e. the population. This government should, in principle, be the sole speaking voice of the population.

The fourth legal criteria of statehood is the independence. This criteria forms the legal aspect and the decisive criterion of statehood whereas the first three components denote the physical aspect of the state. There is no difference between one state and the other from a physical point of view. The difference resides in its independence and its ability to be its own master². By independence we mean the ability of the state to enter into international relation, make treaties, sign agreements, present claims, object any violation, and have the legitimate prerogatives for law-making and jurisdiction over the territory and the people. It follows that the federal states are considered to have internal independence and not international or external one. Such is the case of the United States and Switzerland which have a unique nationality. In sum, independence implies sovereignty of the state over of its internal as well as its external affairs. This gives the state the

¹ Tyan, "Précis de Droit International Privé", section 1, §413

² Niboyet, "Cours De Droit International Privé Français", §49

complete freedom to determine who, for the purpose of its own interest, must be regarded as its nationals and who are to be foreigners - living or working on its territory under given circumstances. Therefore, the will of the state has more weight than the will of the individual and “how the individuals concerned are *regarded* and not how they are *treated*, particularly in connection with political matters”¹. It also gives the state control over its citizens living abroad, beyond its territorial frontiers, and who shall be deprived of such status. This aspect is known as “The Right of Territorial Supremacy”².

Thus, in order to create a stable communitary life, nationality comes to be its most important element. This element will determine the mutual legal rights and duties of both state and nationals. It will create a communal bond, a legal contract, and a political adherence that will privilege both parties with full political rights and obligations, besides international protection. Nationality therefore, binds a person to a particular sovereign nation.

In addition to the four fundamental criterion, we can add five non-mandatory qualifications to take into consideration.

These qualifications pertain to the state and are: a certain degree of permanence; a willingness to observe international law; a certain degree of civilization in order to understand and conduct the necessary diplomatic relation between states; an actual sovereignty; and finally to function as a state in the political sense³.

Then the co-existence of states and the existence of international relations constitute a prerequisite of the concept of nationality.

¹ Van Panhuys, “The Role Of Nationality In International Law”, p.25

² Von Glahn, “Law Among Nations”, p.203

³ Von Panhuys, “The Role Of Nationality in International Law”, p.77

To conclude, defining the state and pinpointing its existential qualifications are important element in order to depict its rights and duties vis-à-vis its citizens, to evoke its ability and obstacles as a decision maker, and thereupon to understand its position and reaction toward certain events.

NATIONALITY AND ITS SYNONYMS

As previously mentioned, each state is composed of a multitude of persons on which the state has the territorial supremacy, and exercises jurisdiction over those persons¹ whom are to be its citizens.

It would be impossible to reach a satisfactory definition of nationality, which would be a quest without an end. There are as many definitions of nationality as there are states, for nationality is a concept of municipal law (as it will be explained later) and thus each state defines it accordingly. Yet, if taken in its formal sense, nationality will be used to denote the quality of belonging to a state, being one of its members. Rules are to define factual criteria on that must be applied for the identification of an individual as a member of a certain group, thus, defining the nationals from the non-nationals or aliens. It is for the person- and because of him - that laws were laid down². The difference between national and alien is the privation of certain rights for aliens, while on the other hand this later might be exempt from certain obligations.

The term nationality connotes a tie between a person and a sovereign state conferring rights and imposing obligations. Nationality is a legal relationship

¹ Von Glahn, "Law Among Nations", p.203

² Mayer, "Droit International Privé", §838

involving allegiance on the part of an individual and usually protection on the part of the state¹. Even though nationality is considered to be *Human Rights*, however, when talking of human rights one should not lose sight of the fact that there are also human duties equally dissociated from the concepts of nationality. This legal relationship will adhere therefore individuals for obedience to their state, to respect its rules and sovereignty, and protect it when necessary. And the state is obliged to protect its nationals and their sense of belonging inside its territory and outside it². Therefrom, we can say that nationality pertains political and judicial relationships between the individual and the state, denoting the sum of the rights and the obligations.

Nation versus State

It is important to underline the difference between a nation - being a sociological notion - that forms people's existence, and a state - being a political notion - that develops a political existence. It follows that nation is an ethnic concept while a state is a political concept³.

Nation is a social term used to designate a group of people bounded by a variety of links such as race, religion, tradition, history ... According to sociological views, the will of people to stick together is one of the most characteristic features of a nation⁴. In Baz's study on the Lebanese Nationality¹, he defines a nation as "the willingness to be together, united by a common past and same aspiration". For the nation, according to Capitant, is "a group of people, living generally on the same territory, having between each others a unity of race,

¹ Webster's Ninth New Collegiate Dictionary

² Abou Dib, "The Lebanese Nationality", p.13

³ Niboyet, "Cours De Droit International Privé Français", §52

⁴ Von Panhuys, "The Role of Nationality in International Law", p.156

language, and religion, creating common aspirations, traditions and souvenirs embodied by the will of a common life”.

In other words, a nation is an ethnic group coexisting on the same land, sharing same race, language, religion, faith, hopes and pains: sharing the same history throughout time, which generated a spiritual community with a special existence. It is the willingness to live and to last together². This willingness can be translated in common interests such as economic, strategic defense, geographical situation, common past, present history³ ...

A state on the other hand, is a political organized body of people (nation or group of nations) occupying a definite territory, that is sovereign. having a federal government and able to enter into international relations. As Von Panhuys describes it the “I” of the one group, thinking itself absolute, discovers the “thou” of the other group and thereupon efforts are made on both parts to create a “we” relationship. By belonging to one of these groups a man becomes involved in the “I-thou-we” process⁴. Consequently, members of a group forming a race or a nation with a corporate sentiment of unity, by seeking political unity, may lead to the formation of a state. Hence, a nation or nations without this willingness to live under a sovereign authority will not create a state recognized internationally⁵.

A state, thus, is a legal entity organized on a given land and grouped under an independent authority. In legal terms thereby, a state is not a nation. A state is the political authority independent from the other states and recognized by international law.

¹ Baz, “Etude Sur La Nationalité Libanaise”

² Niboyet, “Cours De Droit International Privé Français”, §52

³ Tyan, “Droit International Privé”, §413

⁴ Von Panhuys, “The Role of Nationality in International Law”, p.181

⁵ Abou Dib, “The Lebanese Nationality”. p.18

We have witnessed in history different nations being under different authorities, and represented by different states. We have also witnessed different nations or a group of nations represented by the same state, like Canada. Therefrom, we can conclude that a nation does not make a state, but a state is necessarily formed by a nation or a group of nations.

Jean Baz emphasized on the idea that “in fact, a nation is not a state”. A good illustration would be the case of Poland which remained a nation even after its disappearance from the world map and after the war of 1914 - 1918, the Polish state resurrected, simply because it was formed of a group having the same aspiration of independence and a will of a common independent life. The same is applicable for the case of the Czech nation, Yugoslav, and Alsace-Lorraine.

In brief, a state might be created despite the difference of race (like in the United States and in the former Soviet Unions) or the difference in language (like in Switzerland) or the difference in communities (like the confessional communities in Lebanon)¹. Therefore, a state is based on the willingness to live together. On the other hand, we might have all the elements of a nation, yet do not form a state for different many reasons, like the Arab nations.

National versus Citizen

The previous analysis about nation and state applies also to National and Citizen terms. Citizen idiom is used to designate the permanent allegiance of a person to a given state, while the national give allegiance to a certain nation.

The term “National” and “Citizen” overlap because they are frequently used invariably, even though they are not always synonymous: National, in popular

¹ Abdallah, “Comparison Between The Syrian Arab Nationality And The French Nationality”, p.8

usage, has a broader meaning than citizen does. National designates one who may claim the protection of a state and applies to one living or traveling outside that state¹. However, Weis differentiates between the two terms, since every citizen is a national, but not every national is necessarily a citizen of the state concerned. He argues that “nationality of an individual is his quality of being a subject of a certain state and therefore its citizens”², i.e. owes allegiance to a sovereign government and is entitled the protection from it. He adds that the term of nationality comes to have two distinct meaning; the first would be of “a politico-legal term denoting membership of a state” and the other significance is of “a historico-biological term denoting membership of a nation, a corporate sentiment of unity of members of a specific group forming a race or a nation”³.

It is good to note that even though the expression of nationality is derived from the world nation, and with the differentiation made between the nation and the state, the term nationality is still used to identify the allegiance of a person to a political and judicial existence which is the state. The relationship between state and citizen represents a link through which an individual normally can and does enjoy the protection and benefits of international law⁴.

Nationality versus Citizenship

Attention should be drawn on the etymology of the nationality term. Even though it seems to be derived from the term *nation*, it is in no means the concretization of a nationality. It directly connects to a state. Thus nationality is the political determination of individual and not the ethnical definition⁵.

¹ The Ninth New Collegiate Webster's Dictionary

² Weis, “Nationality And Statelessness In International Law”, p.6

³ Ibid., p.3

⁴ Von Glahn, “Law among Nations”, p.204

⁵ Niboyet, “Cours de Droit International Privé Français”, §52

Indeed, various definitions were given to delineate nationality, and although they are employed interchangeably, they usually refer to the same thing. One of these definitions was introduced by Niboyet¹. He defines “nationality as the political and spiritual bond that exists between the individual and the state”. This bond or tie is mainly political allegiance and not spiritual. By allegiance we mean “the obligation of fidelity and obedience which a person owes to the nation of which he is a member or to its sovereign”².

Dalloz argues that nationality is a political notion depending in principle on the state’s will that grant nationality and the individual’s will who receives it, within the framework set by the law of that state.

A second definition states that nationality is the spiritual link that binds the individual to a nation who have in common an origin, tradition, and language and capable of forming or actually consisting a nation-state. As soon as collective entities formed of human beings come to coexist and to live with one another, it becomes necessary and primordial for the members of that group to be distinguished and privileged from the members of another group, *“This is why the history of Nationality dates back to the misty dawn of mankind, although definition of its values may have differed from time to time”*³. Such differences may result from the changing concept about man, state, and international law with time.

*Von Glahn*⁴ states:

“Nationality is the bond that unites individuals with a given state, that identifies them as members of that entity, that enables them to claim its protection, and that also subjects them to the performance of such duties as their state may impose on them”.

¹ Ibid., §47

² Weis, “Nationality And Statelessness In International Law”, p.34

³ Van Panhuys, “The Role Of Nationality In International Law”, p.31

⁴ Von Glahn, “Law Among Nations”, p.204

Another definition was introduced by *Weis*¹. He argues that

“Nationality denotes a specific relationship between individual and state conferring mutual rights and duties as distinct from the relationship of the alien to the state of sojourn”

One of the terms frequently used synonymously with nationality is citizenship. In concept, the terms “nationality” and “citizenship” emphasize two different aspects of the same notion: state membership or communal membership. However, the difference that exists between these two terms is that nationality stresses the international aspect of this membership while citizenship stresses the national, municipal aspect. Therefore, citizenship connotes full membership including the possession of political rights. However, in the federal states, citizenship plays the same role internally as nationality plays it internationally.

The United States, for example, distinguishes between citizens and nationals (as it will explained later in this chapter), and in like manner, defines citizenship as follows:

*“Citizenship is membership in a political society and implies a duty of allegiance on the part of the member and a duty of protection on the part of the society. These are the reciprocal obligations, one being a compensation for the other”*¹.

Consequently, he who has a nationality is considered to be the citizen of that state, and the one who does not have is considered to be an alien or foreigner living in that state. An alien has restrictions over certain things while a citizen has privileges and prerogatives, communitary, judicially as well as politically. This will enable the citizen to benefit from the international protection of his state and from the intervention of his government, when necessary, to protect him in another

¹ Weis, “Nationality And Statelessness In International Law”, p.31

country, becoming by that action a subject of international law. Whereas the alien does not benefit from this protection and does not enjoy full political rights. For the international law does not provide such act. As such, nationality is very important in our daily life, since it provides the individual the necessary immunity against ill-treatment.

Hence, as Niboyet² stated that “you can’t have rights if you don’t have a subject to the law and if you don’t have a technical procedure to create the said rights”.

“Il ne peut y avoir de droits, s’il n’y a pas de sujets de ces droits, et sans un procédé technique pour faire naître les droits en question”.

In brief, nationality as a membership is the political and judicial link existing between an individual and an independent political community which involves rights and duties upon both parts - the citizen as well as the state.

NATIONALITY IN INTERNATIONAL LAW

International versus Municipal Law

Nationality is one of the subjects, contrary to popular belief, which falls within the domestic jurisdiction of each state. Few are the rules of international law, of multilateral treaties and conventions dealing with the subject of nationality. There is quite a distinction as well as an interrelation between nationality used as term of international law and as a term of municipal law. For international law will

¹ Weis, “Nationality and Statelessness in International Law”, p.33

² Niboyet, “Cours De Droit International Privé Français”, §47

connote the rights and duties of one state vis-à-vis another state; while the municipal law will determine the right and duties of the national vis-à-vis his own state. Therefore, under international law, nationality is a relationship between a subject of international law (state) and object of international law (individual)¹.

According to one interpretation, the determination of nationality is a matter of domestic jurisdiction of each state as regulated by its municipal law. Since a state is considered to be sovereign and master of its own decisions, the state decides who shall be its nationals and thus its non-nationals. Consequently, the state will decide under what conditions nationality shall be conferred, and who - and in what manner - shall be deprived of such status. For nationality matter is directly related to the state conditions from the geographical point of view, population, humanitarian, as well as political and economic goals, regardless of other states².

Weis has stated Article 1 of the Hague Convention, on certain questions relating to the conflict of nationality laws, that provides:

*“It is for each state to determine under its own laws, who are its nationals. This law shall be recognized by other states in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality”*³

Article 2, continues by saying⁴:

“...but under international law the power of a state to confer its nationality is not unlimited”.

There are certain principles of international law which frame the state's right regarding nationality. Yet, these principles are to be regarded at present as guidelines rather than as rules and don't have to conform strictly with international law.

¹ Weis, “Nationality And Statelessness In International Law”, p.34

² Karam, “Between The Law And The Reality”, p.26

³ Weis, “Nationality And Statelessness In International Law”, p.65

⁴ Ibid., p.88

Moreover, Van Panhuys¹ refers to the International Court of Justice (ICJ) which emphasize that the determination of nationality is mainly intended for the application of municipal laws. The Court said “nationality serves above all to determine that the person upon whom it is conferred enjoys the rights and is bound by obligations which the law of the state in question grants to or imposes on its nationals. This is implied in the wider concept that nationality is within the domestic jurisdiction of the state”. Therefore, this jurisdiction falls within the legislation of municipal power of the concerned state and not within the international power, to determine the functional character of nationality according to its national interests. The state decides who are its citizens (by birth or some other principles), the permission to allow aliens to enter its territory, and the conditions under which they reside or work etc. ... The right of territorial supremacy would also assert the state’s authority to determine its relations with other states². The right also includes a number of rules concerning the control (protection) of a state over its citizen when they journey beyond its territorial boundaries. Weis says “nationality is the justification in international law for the intervention of one government to protect persons and property in another country”³.

Therefore, a national should be granted the right of diplomatic protection vis-à-vis his government, reinforcing the international position of the individual without making him a subject of international law, i.e. assuming the personal’s rights as interests of the state. Thus, nationality elevates the personal interest to a state interest protected by international law⁴. In addition, the main function of nationality in treaties is to indicate what person comes within its purview, providing nationals with the privileges of treaties signed by the state.

¹ Van Panhuys, “The Role Of Nationality In International Law”, p.153

² Von Glahn, “Law among Nations”, p.203

³ Weis, “Nationality And Statelessness In International Law”, p.35

⁴ Van Panhuys “The Role of Nationality in International Law”, p.192

Limitations to Municipal Law

Despite the fact that nationality falls within the responsibility of the domestic jurisdiction of the state, this responsibility may be restricted by certain numbers of rules of international law concerning nationality. These rules imply it directly but the sovereign state should reply to such regulations. According to Weis “the sovereign jurisdiction of the state in matters of nationality may be restricted by the conclusion of treaties concerning nationality which, to that extent, make the law of nationality a question of conventional international law and so far as multilateral treaties are concerned, a question of international legislation”¹. For this reason, the state is obliged to bring its municipal law in accordance with international law.

Many are the problems related to nationality that go beyond the capabilities of the domestic law to solve it. Such is the case of the dual nationality and the stateless persons. This has caused the states to cooperate between each other in order to find solutions to such problems. This cooperation brought forth the fundamentals of nationality unanimously agreed upon. There is no higher authority to implement it but the willingness of the states to observe it. These fundamentals resulted from The Hague Convention of April 12, 1930², that was adopted later on by the United Nations under the Universal Declaration of Human Rights on December 10, 1948, which proclaims the “right to a nationality”.

These fundamental rules of nationality are as follows:

¹ Weis, “Nationality And Statelessness In International Law”, p.xiv

“Desiring to recognize a function conception of nationality as the means to an end rather than an end in itself”. H. LAUTERPACHT

² The special Protocol concerning conflicts of nationality law, signed in The Hague on April 12, 1930. The agreement had been signed by 20 governments, and accession had been deposited by 4 others when it was announced that the Protocol had at last entered into force on October 11, 1973.

1° - Everyone has the right to a nationality.

In order for a person to benefit from the mutual rights and duties and protection. On the other hand, the stateless persons are increasing in number. For one reason or an other, they lost their original nationality. Yet they cannot oblige the state where they live to grant them its nationality. Therefore, they remained without identity, without belonging to any given state.

2° - Every individual should possess a nationality by birth.

This was stated in the first paragraph of the Article 15 of the international declaration of Human Rights. Two elements are taken into consideration for the determination of the original nationality of a person:

a- *JUS SANGUINIS* or law of the blood attributing the nationality of the parents to the child.

b- *JUS SOLIS* or law of the soil attributing the nationality of the land where the child was born.

Which one to adopt is related purely to political and practical goals of the domestic jurisprudence rather than ethnic.

3° - No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality¹.

The lifetime allegiance to a given state has ceased to be. A state cannot impose its nationality on a person and that person is free to chose either to keep it or give it up, especially when its fails to provide him his needs. Also the state cannot deprive a person of his nationality in a despotic manner even if it is sometimes used as a mean for political interests.

¹ Article 15, §2 of Human Rights Declaration

4° - The naturalization will cause the loss of the original nationality.

It was stated so in order not to confuse the person to whom he shall present his allegiance. However, this is not applicable in the day-to-day life, for if one country is granting its nationality to a person, the mother state is unwilling to give up its citizen. Resulting from this situation is the dual nationality or *bipatriote*.

5° - It is within the sovereignty of each state that falls the nationality question.

Relatively speaking, nationality is a reserved domain regarding each state, however, affected by international agreements. Yet, a state should take into consideration other states' rights too.

Public versus Private Law

In the Nineteenth century, states used to relate nationality to the Private Law, since it is related to the private situation of the person, his legal duties and rights. But later on, as a result of the continuous evolution that took place in the twentieth century, nationality stopped of being part of the Private Law "*Droit Privé*" to become subject of the Public Law "*Droit Public*", since persons became an essential element of the creation of a state. As a consequence, nationality linked the state with the individual; hence a political relationship between both parties, weighting more on the state's will and interests. The French Supreme Court of Appeal consecrated this development by a decision published on February 2, 1921, proclaiming that the law related to obtain or lose nationality would result from the Public Law¹.

¹ Abdallah, "Comparison Between The Syrian Arab Nationality And The French Nationality", p.16-18 and Oulwyia, "The Lebanese Nationality And The Means To Reintegration", p.14-16

It turned out to be difficult to relate nationality either to the Public Law or to the Private Law, since it is the concern of the state's interests as well as the individual's interests. Still, there is no clear cut as which branch of the law governs nationality.

The effects as to which branch of law nationality should be attributed are: first it could be prevailed from International Public Law since it provides diplomatic protection; second it could be prevailed from Internal Public Law since it deals with public functions the individual should abide and can perform such as national services, public services, fiscal obligations, vote, eligibility, military services, etc.¹...; and last it could prevail from the Private Law since it deals with personal questions directly related to the person of the individual such as the difference between national, citizen and alien.

Battifol relate rules of nationality, i.e. the acquisition and loss, to the Public Law which was adopted by the French Supreme Court of Appeal of February 2, 1921. In Lebanon, the Beirut Court of Appeal adopted the French decision, relating nationality to the Public Law.

ELEMENTS OF NATIONALITY

Three major elements form the nationality: the state that gives the nationality, the individual that takes it, and the relationship between both of them.

¹ Tyan, "Droit International Privé", §418

The State

The state modulates the laws of nationality and determines the conditions. In order to determine whether or not to give nationality, the state should be recognized by other countries, §49 Niboyet “est la personne morale du développement public qui est reconnue par les autres Etats comme ayant cette qualité dans la vie internationale”. And in order to recognize a country, this later should maintain its basic personality i.e. its *permanent sovereignty* over a specific population in a specific land.

What is worthy to mention is that permanent sovereignty of this is the state independence even though partial. As an example, we could take the case of the Lebanese state which, in spite of its situation under the French mandate until 1943, the Lebanese government issued Lebanese nationality. Although from the international point of view, Lebanon didn't have total independence.

The Individual

Distinction made by municipal law between the different classes of nationals are not of much importance from the international point of view. The state defines independently nationality according to its own municipal laws. On the other hand, if this definition inconsistent with international law, it will be disregarded by other states¹. However, distinction is still made and different classes emerge on a national level.

Known also as a Patriot, the individual is classified in different groups: One group, called Citizens (Citoyens), is the one that benefits from all the political rights and is subject to the obligations of the same nature towards their state.

¹ Weis, “Nationality and Statelessness in International Law”, p.7

A second group, called Subjects (Sujets) does not profit of all rights especially the political ones. Yet, they assume all responsibilities towards those rights. This rule applies internally and not internationally¹. This term was used at colonial times and disappeared with the disappearance of colonies. Emile Tyan gave the example of citizens under the religious states impact. Those who belonged to the same religion were considered citizens and those who did not, were the subjects. He specifies that those who belonged to the Islamic sect in Islamic states are the *milli* or citizens and those who did not are *dhimi* or subjects. This situation applies not only under religious impact but also under religio-racial, i.e. religion, race and color, or even political doctrine. The inhabitants not belonging to either of the previous categories would belong to an inferior level of citizenship.

A last group called Subjects of ruler (Ressortissants²), who did not have the citizenship of the ruling state yet it was under its jurisdiction, i.e. Lebanese under the French mandate. This group consisted of citizens and non-citizens of the ruled state. From an international point of view, this group was considered as nationals of the ruling state. This will also embody the protected persons “Les Protégés” as it is the case of the Tunisians before their independence, which were considered subjects of the French state.

The Relationship between the Individual and the State

In the nineteenth century, it was informally agreed that a mutual relationship existed between the individual and the state. This understanding does not hold anymore and today's common theory cites that the state is the one that

¹ Niboyet, “Cours de Droit International Privé Français”, §53

² The word *Ressortissant*, derived from *Ressortir* “to spring from, to derive from”, refers particularly to the jurisdiction of origin. A *Ressortissant* of a state is a person coming under the sovereign jurisdiction of that state. Weis, “Nationality and Statelessness under International Law”, p.8

voluntarily gives nationalities and puts conditions to have it either naturally as a citizen i.e. by place of birth, or by a formal decision from the state as it is the case of acquiring the nationality.

Moreover, we have to mention the theory of Human Rights Declaration of having for each person a nationality. In the same manner and by definition, it is not recommended to have more than one nationality because this situation will exhaust its bearer with all the obligations towards both nations.

On the other hand, changing nationality could be applied to the theory of “respecting individual freedom,” i.e. the state should not deprive a person his right of giving up his nationality for the sake of another one. For the human being is not a slave of his own nationality and should not remain chained to a society he was involuntarily linked, though he can achieve for himself a better position in a different society.

ACQUISITION OF NATIONALITY

This category of nationality rules is known to be *positive nationality rules*, i.e. rules determining who are a state's nationals¹.

There are two types of this category: the original nationality “*nationalité d'origine*” and the secondary nationality “*nationalité secondaire*” or derivative “*dérivée*”.

¹ Von Panhuys, “The Role of Nationality in International Law”, p.20

Original Nationality

The two principles on which acquisition of original nationality is based are the law of the blood or "*Jus Sanguinis*" and the law of the soil or "*Jus Solis*". This nationality is acquired either is by birth on territory or by descent.

According to the law of the blood or "*Jus Sanguinis*", a child's nationality follows that of the parents, regardless of the place of his birth. This nativity could be either legitimate or natural as long as the parents recognize it¹. Thereby, a child not having this recognition cannot have a *Jus Sanguinis* nationality or *nationalité de filiation*. While under the law of the soil or "*Jus Solis*" any individual born on the soil of a given state, irrespective to the parent's allegiance, is regarded as a national of the state in question. This aspect is also known as territorial nationality as opposed to the *Jus Sanguinis*². This policy is usually adopted by states having for instance vast lands and huge economical possibilities in addition to a low population density (Canada and Australia).

Being born on the soil of a state is sufficient to create the bond of nationality. Thus, a child born from Lebanese parents in the United States would be Lebanese under the *Jus Sanguinis* as well as American national under the *Jus Solis*³.

Arguments could take place on which of the two previous laws is more efficient or effective. Both could be strongly supported by convincing arguments. However, one should not forget that there is no absolute truth, varying from one country to another. This is a strictly national problem that can only be met in accordance with state's demographic as well as geographic situation. Niboyet gave the example of emigrating and immigrating countries. He argued that the

¹ Niboyet, "Cours de Droit International Privé", §55

² Ibid., §53

³ Most European states, as well as Lebanon, used to adhere primarily to the law of the blood while United States and Latin American states follow the law of the soil.

emigrating countries adopted the *Jus Sanguinis* while the immigrating countries adopted the *Jus Solis*.

Most states do not adopt either of these principles *a priori* but accept both with varying emphasis on one or the other, conditioned usually to specific requirements, such as residency. Everything is essentially relative and not absolute. The ICJ in the *Nottenbohm* case in 1953¹ held that “there must exist a specific link effective in nature, a genuine connection between a state and its citizens”. This doctrine is generally accepted and applied today.

Secondary or Derivative Nationality

Secondary or derivative nationality is the one that an individual gets after his birth. Niboyet stated four influential circumstances under which an individual can acquire this type of nationality².

The first one is the integration of place of birth like it is the case of illegitimate offspring (*bâtards*) born in a given state without any nationality; therefore, they are given the nationality of the state where they were born.

The second one is the case of marriage of a mixed couple when the wife acquires the nationality of her husband³ or vice versa. This is usually done for the sake of the family unity and homogeneity and from a practical point of view. The family

¹ The *Nottenbohm* Case (*Liechtenstein v. Guatemala*), ICJ 1953

² Niboyet, “*Cours de Droit International Privé Français*”, §59

³ The Convention concluded at the Hague Conference contains several provision dealing with the nationality of married women:

Art. 8: Loss of nationality by the wife conditional on her acquiring her husband’s nationality

Art. 9: Loss of nationality by the wife upon change of nationality of husband conditional on her acquiring her husband’s new nationality.

Art. 10: Naturalization of husband to effect change of wife’s nationality only when consent

Art. 11: Resumption of wife’s previous nationality after dissolution of marriage only on application and involving loss of the nationality acquired by marriage.

acquires nationality of the state where it resides, either the husband's state of the wife's state.

The third one is when established in a foreign state, the individual applies voluntarily for naturalization. In this case the individual is asking a favor from the host country and it is up to that sovereign state to decide whether to grant him its nationality or not. Yet, residency for a certain period of time would seem to be a fairly universal prerequisite.¹ In addition to residency, certain states might stipulate other requirements such as knowledge of the language of the country etc.... This is known as *individual naturalization*.

As for the fourth circumstance, known also as *collective naturalization*² the voluntary aspect of individual naturalization may be absent, like a change in state sovereignty. Such is the case of inhabitants of a given territory, whom conquered, are annexed to the conquered territory. Those, usually, have the choice of either keeping their original nationality and thus depart from the annexed territory, or opting for the nationality of the state they've been attached to. However, due to major forces, this choice is never applied³.

In sum, the individual that has the right to change his nationality has to give up his original one in order to have a secondary one. Again, the power of a state to confer its nationality is derived from its sovereignty⁴.

Each state possesses, under international law, a sovereign right to decide which aliens to admit, to whom to grant citizenship, and under what conditions. These states refer to the doctrine of *Nottenbohm Case* to establish *effective links* for candidature⁵ acceptance of citizenship, such as residency, educational

¹ Weis, "Nationality and Statelessness in International Law", p.101

² Apply to whole groups through an executive or legislative act. It could bear an indirect relationship to international law when it is based on treaty provision. Von Glahn, "Law among Nations"

³ Niboyet, "Cours de Droit International Privé Français", §67

⁴ Independence, territorial and personal supremacy are considered as the elements of sovereignty.

⁵ Von Glahn, "Law among Nations", p.208

qualifications, physical and mental health, no criminal records, no political membership etc.... Some countries exclude aliens whose occupations are not needed. In other words, admission to citizenship is deemed to be purely domestic in nature and therefore not subject to the application of international law.

Finally, naturalization could have two aspects: qualitative and quantitative¹, according to the policy the state adopts. Each state to regulates, according its own interests and demography whether quality or quantity is needed.

LOSS OF NATIONALITY

This other category of nationality rules is known to be *negative nationality rules* (as opposite to the previous one: acquisition of nationality) which lay down that a person is not a national or is no longer a national².

Nationality may be lost by an act of the national or by an act of the state.

In the first instance, the voluntary acquisition of a foreign nationality involves normally the loss of original nationality³. In the second instance, it is called deprivation of nationality or denationalization. Deprivation of nationality may result from a certain situation or certain conduct of the national that entails ipso facto the loss of nationality(e.g. entry into the service of a foreign army or accepting foreign distinction). This deprivation may be automatic as a punishment,

¹ Niboyet, "Cours de Droit International Privé Français", §62

² Von Panhuys, "The Role of Nationality in International Law", p.21

³ Niboyet, "Cours de Droit International Privé Français", §68

or by operation of law¹. On the other hand, the deprivation could be a way of penalty imposed by a court in conviction of a certain crime.

Denaturalization

Legislation varies from country to country as to whether loss of nationality is an automatic result by operation of law or whether a decision by a judicial or administrative authority is required. However, common grounds for deprivation in some countries are accepted, but are by no means universally accepted.

Another kind of deprivation is by expiration based on absence abroad over a period of time, i.e. departure or sojourn abroad. Then, we have the renunciation by an explicit act of the individual. Moreover, denationalization for political attitudes or activities, in addition to racial and national grounds, are also adopted such is the case for disloyalty, collaboration with the enemy, acts detrimental to the state or its interests, advocacy of rebellious activities, etc.² ...

Expatriation and Substitution

The attitude taken by states has varied throughout history and is still far from uniform.

Expatriation consists in renunciation of nationality by a person who has left the country of his nationality and who has acquired or is in a position to acquire another nationality. While substitution is an automatic loss of nationality upon acquisition of another nationality.

¹ Weis, "Nationality and Statelessness in International Law", p.120

² Ibid., p.123

Voluntary or involuntary loss of nationality is uniformly and universally accepted. A direct consequence of deprivation is statelessness.

NATIONALITY CONFLICTS

As noted in the previous chapters, a sovereign and independent state will, upon its own national interests, yet guided by international rules of nationality, legislate its own jurisdiction regarding nationality. Based on the view that nationality is the principle link between the individual and his state, thus between international law, nationality becomes the essential condition for the individual to claim his rights and protection in the international sphere¹.

Although the international law put some restrictions and limitations to such freedom, it did still not reach a final stage. The later would standardize the domestic nationality law of different states, obligating the state to give its nationality or to withdraw it.

From that point of disagreement of such law, and from the point that there is no absolute truth but relative truth, results nationality conflicts as a direct consequence of municipal law.

This conflict of domestic character of nationality law has two aspects: the positive one and the negative one. We are in a situation of negative conflict when there is lack of nationality, no state would attribute its nationality to the individual who is called *Stateless Person* or *Apatride*. Whereas the positive conflict is whenever we are in a situation where the person in question has more than one nationality, each

¹ Weis, "Nationality and Statelessness in International Law", p.166

state considering him its own national: *Plural nationality* or *Sujets mixtes*. In both situations, the conflict is not less harmful than the other.

In the Lebanese jurisdiction, there is no rule on how to solve such conflict. For that purpose, the Lebanese Court refers to solutions adopted in France, Syria, and other Arab States¹.

The question we might ask is whether there are any rules of Public International Law for the solution of conflicts arising from persons who do not have any link at all (stateless persons) or from persons having more than one nationality (*sujet mixtes*)².

The Negative Conflicts: Statelessness

In general, statelessness means a person not having a nationality under the law of any state. The statelessness status is an undesirable situation for both the individual and the state. The day-to-day difficulties encountered by a stateless person may assume incredible complexities³, such as identity documents, travel permits, work permits, marriage licenses, etc. ... Although the individual can benefit from the advantages the society is providing, he cannot benefit from the international protection and from a stable life since he is at any time threatened to be kicked out from the state. On the other hand, this standing may lead to friction between states. This problem of statelessness causes a great number of difficulties and complexities. A number of international conventions have been developed to deal with such question, but limited ratification has caused the problem to continue. In spite of the fact that the Human Rights Declaration on December 10,

¹ Abdallah, "Comparison Between The Syrian Arab Nationality And The French Nationality", p.213

² Weis, "Nationality And Statelessness In International Law", p.165

³ Von Glahn, "Law among Nations", p.214

1948, gave everyone the right to a nationality, it did not eliminate the problem of the apatride persons.

We have three types of statelessness status, the *absolute statelessness* and the *relative statelessness*¹, also known as *de Jure stateless*, in addition to the *de facto stateless*².

The original statelessness known also as *absolute statelessness*, occurs when at birth, the person does not acquire any nationality of any state. This is the case mostly of the children of unknown parents and illegitimate offspring, since there are no rules of international law imposing a duty on states to confer their nationality. This is directly related to the policy the state in question is adopting toward nationality. For that, it was said that the *Jus Sanguinis* is causing more and more stateless persons since it makes it hereditary.

The subsequent statelessness known as *relative statelessness*, occurs when the person loses his nationality after birth without acquiring any other nationality, For instance, this is the case of persons deprived from their nationality by their own former government either as denaturalization, expatriation, territorial changes, due to marriage, or when applying to another nationality while not acquiring it yet. Indeed, no rules of international law deny or restrict the right of states to withdraw their nationality.

In Lebanon, we had a special case of group of persons not having any nationality, but holding a permit to reside on the Lebanese Territory as having nationality under study³. This status is the result of some historico-politico-ethnic¹.

The previous two types of stateless are *de Jure* situations. While on the other hand, we have the *de facto* stateless when persons without having been deprived of their

¹ Weis. "Nationality And Statelessness In International Law", p.166

² Von Glahn, "Law among Nations", p.212

³ See chap. II for more explanation

nationality, no longer enjoy the protection and assistance of their national authorities outside their own country. This is the case of the refugees who were outside their country of origin because of persecution and violence.

The scope of the problem of the *de facto statelessness* of refugees, has been and still is, increasing in human misery. Many international efforts have been taken for the reduction of statelessness and elimination of the causes of statelessness, by international actions such treaties and conventions. However, no decisive actions have been taken yet. Nevertheless, many recommendations have been adopted inviting the states to reconsider their laws regulating the question of nationality. These recommendations aim to reduce the number of stateless person and to eliminate the causes of statelessness since no international intervention is accepted on the domestic level. The number of international refugees in 1989 totaled over 14.36 millions of which more than 1 million Palestinian existed as refugees in the Middle East².

One of the most prominent conventions related to nationality is The Hague Codification Conference on April 12, 1930, containing provisions designed to reduce statelessness³.

These provisions do not however, touch the main causes of relative statelessness and absolute statelessness, they only deal with the problem and not the causes⁴.

¹ Abdallah, "Comparison Between The Syrian Arab Nationality And The French Nationality", p.214

² Von Giahn, "Law Among Nations", p.213

³ This convention states:

Art.3: a person having two or more nationalities could be regarded as its national by each of the states whose nationality he possessed.

Art.4: a state could not afford diplomatic protection to one of its nationals against a state whose nationality such a person also possessed.

Art.5: in a third state a person having dual nationality should be treated as if he has only one.

Art.6: a person possessing two nationalities acquired in voluntarily was entitled to renounce one of them but only with the permission of the state whose nationality he desired to surrender.

Art.7: (dealing with expatriation permits)

Art.8 & 9: (relating to the nationality of married women)

Art.13, 14, 15, & 16: (dealing with the nationality of children)

Art.17: (dealing with adoption)

⁴ Weis, "Nationality and Statelessness in International Law", p.167

The Positive Conflicts: Plural Nationalities

It is more appropriate to speak of a conflict of nationality laws in the case of plural nationalities¹.

A nationality conflict exists when the same person holds two nationalities concurrently attributed by the legislation of two sovereign and independent states. This comes to be the result of the policy adopted by the state, either applying the *Jus Sanguinis* or the *Jus Solis*. For instance, he who get the nationality of his parents at birth will also get according to the *Jus Solis*, the nationality of the land where he was born. Likewise, when a female marries a foreigner, she will obtain the nationality of her spouse based on her application, or according to the law of the husband's state, she also can keep her original nationality according to her state of origin. Moreover, the case holds true when applying for a new nationality concurrently with the original nationality.

This pluralism has caused mainly two types of reactions².

The first reaction concerns the individual, who's the direct effect of pluralism. The individual might not be treated as a national by both states, and one set of rules of a state might paralyze the effects of the other set. This status quo is not to weigh heavily on the individual with all the related obligations towards the states especially - allegiance for the states. What if these states in question have conflicting interests? Or they happen to enter into war with each other? Taking sides will cause his disloyalty to the other state. In such a situation, which law should be applied to resolve the conflict?

The second reaction involves the states, the cause of this pluralism. The states will be in a perpetual struggle to find solutions to such issues. In the Hague Convention

¹ Weis, "Nationality And Statelessness In International Law", p.172

² Mayer, "Droit International Privé", §854

of April 12,1930, Article 4 states that one state cannot provide diplomatic protection to one of its nationals against another state, if this later is also a national of the other state.

This situation will cause a major disturbance in the international relation existing between states. For this reason, Abou Dib, as well as others, said that “it is recommended that an individual will not have more than one nationality”¹.

Albeit the recommendations of the different conferences and conventions, the international law is still inept to eliminate these nationality conflicts. The problem of dual nationality itself has not yet been settled by means of a general international convention. The Hague convention 1930, was a “*modest beginning*” related to certain questions regarding the conflict of nationality laws², and the case of *Nottebohm* could be a good base for such kind of conflict. This is a major twentieth century problem with the freedom of choice, of fidelity and dedication. With the original nationality being the basis of the conflict, the derivative nationality becomes easier to agree upon internationally, in theory at least. It follows that an international law regulating such conflicts comes to be practically impossible, or let us say unattainable, for it falls within the domestic power of each state to regulate it according to their own national interests, traditions, and social status quo.

Before discussing the possible solutions to such conflicts, we have to mention that the nationality conflict is not the same as the nationality law conflict problems. What we are looking at is not the nationality itself but in case of conflict of plural nationalities problem which body of rules should be ascribe to the person in order to solve it³. Thereby, what we aim at is to specify the nationality of the person in order to apply its corresponding rules and regulations.

¹ Abou Dib, “The Lebanese Nationality”, p.34

² Von Glahn, “Law Among Nations”, p.209

³ Weis, “Nationality and Statelessness in International Law”, p.172

Most of the cases presented to international tribunals regarding the question of nationality of the person concerned had to be examined in order to establish the so-called “*nationality of the claim*”¹.

Solutions to Conflicts

As we have seen earlier, the main nationality law conflict results from the positive conflict type such as plural nationality rather than from the negative conflict type, i.e. statelessness. The main problem remained to examine which of the several nationalities should prevail in order to determine which of the several municipal body of rules is to apply to a given situation. International Law contains only rules for the solution of difficulties arising from plural nationality².

Badawi Abou Dib³ divided the adaptable solutions into four different categories. He spoke first about the law of the states involved (positive law), second about international treaty, third about diplomatic solution, and fourth, about the judicial solution.

a- Solution by Positive Law

In this case, it is within the individual own will to decide under which laws of his concurrent nationalities would he like to be judged. And this is known to be the *Right of Choice - Droit D’Option*.

b- Solution by International Agreements

What is mentioned in the agreement signed between both states is to prevail in solving the conflict. To illustrate, we state the agreement of

¹ Weis, “Nationality And Statelessness In International Law”, p.173

² Ibid., p.245

³ Abou Dib, “The Lebanese Nationality”, p.35

September 20, 1917, between Italy and Nicaragua¹ stating that the Italians as well as the Nicaraguan nationals living on the territory of the other, will conserve his original nationality and transmit it to his children. In addition, he might adopt the *Jus Solis* nationality.

c- Diplomatic Solution

When two states declare that the person in question is of its nationals, and no international agreement between them exists to clarify the situation, one of the two states will withdraw by a mutual consent. This is known to be the diplomatic solution. In spite of this fact, the state will not impose its will on the individual nor deprive him of his natural rights. It is upon the individual will to decide under which law he will be protected. He can refer to courts to prove his adherence to a given state.

d- Judicial Solution

When the diplomatic means fail, when no international agreement exists or when the domestic law lack regulations fail to resolve nationality conflict, this problem will be presented before the international tribunals in order to reach a solution. Still, it is one of the most frequent and delicate subject to deal with.

We have two types of judicial solutions agreed upon:

1°- Since nationality is related to the public law, the judge should not refer but to the law in the name of which he is rendering justice¹. Therefore, the Court where the conflict case is presented, being one of the parties involved, will apply its domestic jurisdiction to solve the problem, considering the nationality of the person as being a local one and not as a foreigner. This was adopted in the international

¹ Ibid., p.37

conventions such as article 3 of The Hague Convention signed on April 12, 1930²

“Sous réserve des dispositions de la présente convention, un individu possédant deux ou plusieurs nationalités pourrait être considéré par chacun des Etats dont il a la Nationalité, comme ressortissant”.

This was also adopted by the Lebanese Jurisprudence where the Lebanese Nationality Law prevails.

2°- When the conflict presented to the court does not include the local nationality then the court is neutral regarding which law to implement without any preferential inclination, in order not to offend any of the states involved. Article 5 of the The Hague Convention of April 12, 1930, adopted the following solution

“Dans un Etat tiers, l’individu possédant plusieurs nationalités devra être traité comme s’il n’en avait qu’une. Cet Etat pourra sur son territoire reconnaître exclusivement parmi les nationalités que possède tel individu, soit la Nationalité du pays dans lequel il a sa résidence habituelle et principale, soit la Nationalité de celui auquel il apparaît, d’après les circonstances, comme se rattachant le plus en fait”³.

Nevertheless, the international decisions having to chose between the original, most recent, or residency nationality, used as a basis to

¹ Baz, “Baz Collection”, p.165

² Abdallah, “Comparison Between The Syrian Arab Nationality And The French Nationality”, p.217

³ Baz, “Baz Collection”, p.168

solving the conflict, adopted the theory of *the Effective Nationality*¹ or *Active Nationality* i.e. the nationality of the country to which he is in fact most closely attached *de facto attachment*² by specific residence or other requirements. This results directly from the definition of nationality and that the individual is a real member of a society. Nationality starts as a fact before becoming a law, consequently the adoption of the Active Nationality turns to be the natural result of that fact³.

Therefore, when solving a problem between two foreign nationalities, the preference would go to the Active Nationality.

The *Canevaro Case* between Italy and Peru, decided by the Permanent Court of Arbitration on May 3, 1912, may be regarded as the leading case in such matters⁴.

It concerned a monetary claim of Rafael Canevaro against the Peruvian government. Canevaro chose the Italian Nationality while the Peruvian government considered him as its National. According to the terms of the compromise, one of the questions to be decided by the Court was:

Has Don Rafael Canevaro a right to be considered as an Italian claimant?

According to the Protocol signed in Lima on February 25, 1910 between Italy and Peru, Don Rafael Canevaro was considered to be a Peruvian National as being acting as a Peruvian citizen.

¹ Abou Dib, "The Lebanese Nationality", p.38

² Weis, "Weis, "Nationality And Statelessness In International Law", p.197

³ Baz Collection, p.168

⁴ Weis, "Nationality And Statelessness In International Law", p.173
Abou Dib, "The Lebanese Nationality", p.39

Another case also used as a base to solve such issue is the *Nottebohm Case* of April 6, 1955. *Nottebohm*, German national established in Guatemala and naturalized in Liechtenstein. *Nottebohm* could not benefit from the diplomatic protection that Liechtenstein was providing him against Guatemala. For the effective nationality prevailed¹.

Finally, the Lebanese jurisprudence is adopting this principle in solving such problems, stated in Appeal June 25 and July 1, 1947²:

“Nationality recognized is the effective nationality or Active; because it is recognized as a fact, an effective behavior, manifestation of the activities of the interested person. But this is a nationality of right and not a factual situation”.

¹ Mayer, “Droit International Privé”, §850

² Tyan, “Précis de Droit International Privé”, §427

CHAPTER II

THE LEBANESE NATIONALITY

ORIGIN OF THE LEBANESE NATIONALITY

The Ottoman Empire

Lebanon was under the power and jurisdiction of the Ottoman Empire, holding thereof the Ottoman nationality defined by the law of January 19, 1869. This law is essentially secular in nature. This law regulated the status of the inhabitants of the Ottoman Empire until its definite dismantling by the Lausanne Treaty.

Therefrom, the Lausanne Treaty became the turning point in the history of nationality of these stripped states: Egypt, Iraq, Hedjaz, Palestine, Transjordan, Syria, Lebanon, and Cyprus¹. The Lausanne Treaty is an important event from a judicial point of view as well as from a political point of view. The concept of nationality is no longer based on religious aspects but on political interests revealed in the will of these states to become independent. Even though the European concept of nationality was adopted, we can always notice the religious aspects are not clear cut with the inherent of nationality law. This is revealed in the dominance of the law of the blood "*Jus Sanguinis*" over the law of the soil "*Jus Solis*". Regardless of this fact, East & West are able now to operate on a common technical notion of nationality.

¹ Ghali, "Les Nationalités Détachées de L'Empire Ottoman à La Suite De La Guerre", p.10-13

The Lebanese Powers

The law of January 19, 1869 remained effective until the allies occupied (French and Britain) Lebanon in 1918. This occupation resulted in the effective detachment of these states from the Ottoman Empire. The League of Nations put Lebanon under the mandating power of France. In August 31, 1921 the French High Commissioner issued decision n°318 defining Lebanon's new frontiers. On the first of September 1920, General Gouraud declared this newly defined territory as Great Lebanon. Consequently, Lebanese inhabitants lost their Ottoman citizenship and became *ipso facto* the citizens of the new state of Great Lebanon.

A census was conducted in March 9, 1921, during three months, each person registered in this census obtained new Lebanese nationality¹. This decision divided the registers into two categories:

- a- category "A" included all inhabitants living in their villages and cities.
- b- category "B" included inhabitants that have a temporary absence while keeping their interests in their villages and cities. This category also included the foreigners living in these villages and cities.

After the census of March 9, 1921 Lebanese nationality was issued even though not yet recognized internationally. Thus, Lebanese nationality had at that time a *de facto* status and not a *de Jure status*.

The international entity of Lebanon was effectively consecrated by the Lausanne Treaty of July 24, 1923, after its detachment from the Ottoman territory, resulting therefrom of the creation of a new nationality. This treaty was signed by France, Britain, Italy, Japan, Greece, and other states on one hand, and Turkey on the other.

¹ Decision n°763, March 9, 1921

The effective implementation of this treaty was on August 30, 1924, after the publication of the mandated power of the law n°2825. Article 30 of the French High Commissioner decision, as well as Article 1 of the law n°2825 state that from now on, it is considered to be Lebanese he who was an Ottoman citizen and living on the Lebanese territory at the date of August 30, 1924. Therefore, he automatically loses his Ottoman nationality.

Article 30 and Article 1: states "Les ressortissants turcs établis sur les territoires qui, en vertu des dispositions du présent Traité sont détachés de la Turquie, deviennent de plein droit et dans les conditions de la législation locale, ressortissants de l'Etat Libanais auquel le territoire est transféré".

On the other hand, there was some exceptions stated especially in Articles 31, 32, and 33 of the Lausanne Treaty modified by Articles 2, 3, and 4 of the law n°2825

Article 31 and Article 2: reads "Persons aged 18 years and above, losing their Ottoman nationality and receiving legally the Lebanese nationality in virtue of Article 30 and Article 1, having the possibility for a period of 2 years, starting from the date of execution of this treaty, to opt for the Ottoman nationality".

In addition, Article 32 of the Lausanne Treaty and Article 3 of the law n°2825 regulating the Ottoman citizens not originally from Lebanon but living on the Lebanese territory at August 30, 1924, who did not choose the Ottoman nationality during the period of 2 years, are considered to be Lebanese.

While in Article 33 and Article 4 of the corresponding laws, those who have chosen their nationality should, within a 12 months period, transfer their residence to the state they have chosen its nationality.

TYPES OF LEBANESE NATIONALITY

Original Nationality

Lebanese nationality was defined accordingly with the blood bond theory, in addition to the land bond theory application in some cases.

The blood nationality, "*Jus Sanguinis*", is implied in the first paragraph from the first article of the 15s decision:

"The child born from a Lebanese father possess Lebanese Nationality".

And the difference between the French and Lebanese statement is the term "legitimacy" which refers to the legal status of the new born. Despite the fact that the Lebanese statement doesn't mention the word "legitimate", the birth was assumed to be so. Therefore, the legitimate child will have his father's nationality whether he was born in Lebanon or abroad, in condition that his father is a Lebanese at birth.

On the other hand, article 2 of the Decision 15s deals with granting the Lebanese nationality to the natural offspring as follows: if it was proven the filiation while minor, the child will have the Lebanese nationality if one of his parents filiated to, is Lebanese.

In other words, if the natural sonship was proven from the mother, either voluntarily or judicially, the son will acquire the mother's nationality. Therefore, he is Lebanese if the mother is Lebanese or foreigner if she is. The same thing applies to the father.

According to Article 2 of decision 15s, when both parents declare their parenthood to the child at the same time and with a single legal document, the child is not considered Lebanese unless the father is¹

Furthermore, the *Jus Solis* theory or the land theory is also considered to be original nationality given to a person born on the Lebanese territory. The land nationality is a continuation of the blood nationality which is based on the Lebanese legislation.

For the land nationality is an exception of the legislation, but this exception was justified by the first article of the Lebanese nationality law, in which was mentioned in its second and third paragraph the following:

"It was considered Lebanese":

§2- each person born on the land of the Great Lebanon, whom was not attested having another foreign nationality by his natural born sonship.

§3- each person born on the land of the Great Lebanon from unknown parents or from parents with unknown citizenship.

The second paragraph is exercised in these cases:

a- if only the father was of an ambiguous nationality (the father is the one that gives the nationality to the children) and the mother was Lebanese or foreigner and that the laws of her country forbid her of giving her nationality to her kids born outside her country.

¹ Abdallah, "Comparison Between The Syrian Arab Nationality And The French Nationality", p.76

b- if a foreigner by acquisition of a nationality had a child in Lebanon, when the laws of the acquired nationality doesn't provide the father's akin unless born on its territory.

Last but not least, the third paragraph is divided into two parts:

a- The case of the child of unknown parents:

The foundation of the nationality given for the born child of unknown procreators is "the territory of the birth", for it is impossible to give the child any other nationality when the progenitor and the mother are unexplicit.

Indeed the person born of unknown parents can in fact become a legitimate father, yet his problem remains in his own vague legitimate sonship.

Some countries consider that the born child of unknown parents in a given country, is to be seen as born from natives and not foreigners.

b- The case of the child of parents with unexplicit nationality:

This situation was nullified in Paris in 1938 due to the inconvenience resulting from it. However, this legislation still applies in Lebanon.

It was provided in the tenth article of the decision 15s:

"Whilst keeping the right to chose as sentenced in the Lausanne Treaty on July 24, 1923, a person is considered Lebanese who was born in the Great Lebanon from a father who also was born there and who was an Ottoman citizen on November 1, 1914".

This nationality is derived from the "idea of choosing for the patriot in Lebanon since his grandma's arrival, her child's born in Lebanon whom in term gave birth to his son". For that purpose, the adjustment for some rare cases was expressed in the transitional legislation in decision 15s, and what distinguishes it is that it did not set the residency on 30/8/1924 as a condition. Consequently, it

controverts the legislation of Lausanne. In the same manner, it requires three important elements in order to apply:

- a- the applicant should be born in Lebanon.
- b- the applicant's father was born in Lebanon.
- c- his father in 1/11/14 had the Ottoman's nationality.

The fact is, the High Commissariat didn't specify the scope of application of the tenth article and the courts didn't apply it in any case. But the treaty of Lausanne was applied to solve any controversy.

Secondary or derivative nationality

The secondary or derivative nationality is the fact that a person having a nationality at birth, will acquire another one afterward. And this is in the case of marriage, naturalization, and choice.

Acquiring Lebanese Nationality by marriage: Two ideas have been the focus of this matter:

First: the principle of family unity for the marital couple.

Second: the idea of independence.

The principle that was commonly practiced through the nineteenth century and through the beginning of the twentieth century in almost all the countries, is the sole nationality of the marital couple. This principle prevailed in France, and as a consequence, the French High Commissioner was inspired to formulate the Lebanese Nationality Law (The fifth article verbatim): "The Lebanese woman married to a foreigner will have his nationality if the husband's national regulations

will provide it to her or else she will keep her Lebanese nationality". This new principle is not to affect situations previous to the decision of January 19, 1925¹. Nevertheless, the French legislator altered this rule in his country in 1927 to give the right to the French wife to keep her nationality if marrying a foreigner. The main reason for this modification is for the French political interests.

In short, many alterations took place, each one seen as the best solution for the political interest of France. Finally and for the third time, the decision of 1945, that it is still active until these days, is the one that gives a sacred privilege of the sole nationality of the conjugal couple. And this new legislation came as a consequence of many inquiries.

On the other hand, the Lebanese legislator didn't go along with this step of development. For he switches from one principle to the other without taking into consideration the local social evolution. Rather, coping the foreigner's legislation was the main weaknesses of the Lebanese legislation, without studying and analyzing the Lebanese social needs.

The concept of a sole nationality for both couples was the one applied until 1960, than it was replaced by the principle of independence by virtue of the law issued on January 13, 1960. Accordingly, the fifth article of decision 15s became:

"The foreigner woman married to a Lebanese will become Lebanese after one year of the registered date in the Official Register, concurrently with her formal application". In sum, acquiring Lebanese nationality for a foreigner woman married to a Lebanese is bound to the one year experience in addition to her application.

In like manner, article 6 of decision 15 was deleted and replaced by:

¹ Gali, "Les Nationalités Détachées De L'Empire Ottoman à La Suite De La Guerre", p.250

“The Lebanese woman married to a foreigner will remain Lebanese and acquires her husband’s nationality. Upon her request, she can formally renounce her citizenship”.

The Lebanese law gives the right to the Lebanese woman married to a foreigner to keep her Lebanese nationality, besides her husband's nationality. And by that way, she will hold both nationalities.

Acquiring Lebanese Nationality by Naturalization: Naturalization is another way to obtain citizenship after birth. Naturalization is a favor that an individual voluntarily applies for ¹. Therefore, naturalization involves the will of the individual to apply and the will of the state to grant The first paragraph of article 3 of decision 15s, January 19,1925, of the decision 160, dated July 16, 1943 mentioned:

“It is possible to earn Lebanese nationality by a presidential decree, after proper investigation and based on the formal applicant’s petition:

- 1- for a foreigner with a legal residency in Lebanon for an interrupted duration of five years.
- 2- for a foreigner who is married to a Lebanese woman after a legal residency in Lebanon for an interrupted period of one year after the marriage.
- 3- for a foreigner who fulfills some documented important services for the interest of Lebanon.

In addition to these three types of naturalization, article 2 of the law of January 11, 1960 states that Lebanese nationality is granted to a person of Lebanese origin, coming to settle his interests in Lebanon, and applying for nationality.

In sum, we have two types of naturalization. The normal kind implying the fulfillment of all the required fundamental and formal (explained later on)

¹ Niboyet, “Cours De Droit International Privé Français”, §62

conditions, defined by the first category mentioned above. Second, the special kind, which includes foreigners of Lebanese origin applicant, exempts him of some of the fundamental conditions, defined by the second and the third categories.

One should not forget that the characteristics of such naturalization do not constitute a natural right to the applicant rather, it is viewed as a privilege granted by the Lebanese government. Only the government's approval would be the principal basis of such naturalization, even if all required fundamental and formal conditions are fulfilled.

Therefore, the conditions for naturalization are of two sorts: fundamental and formal.

1- The fundamental conditions:

- a° - first condition: the applicant should be a foreigner who has no bound with Lebanon and who might be considered as a citizen.
- b° - second condition: there is no law in the Lebanese legislation that specifies the age of naturalization. Yet, according to the article 215 of the Civil Law, each person of eighteen years and older can be an applicant for naturalization. Younger persons may not apply, for they follow the parent's conditions.
- c° - third condition: the duration of residency or a training period is required of the applicant to insure homogeneity and conformity with the local inhabitants. In Lebanon, the required duration varies from five years to one year or to an unspecified period.

a- the permanent five years residency

This residency has to precede the application. The law didn't specify when to start or if it is necessary to wait for the full legal age. For this reason, there is no adulthood requirement for the legal start of the residency. Anyhow, this permanent residency might not be a sign of homogeneity, or might not be a sufficient element of homogeneity. But it could show the will of the applicant to settle down in Lebanon. Therefore, an uninterrupted regular residency is required. This means living in the country where business and personal interests are based. In addition the interruption of residency for a legal duty was defined as a *suspension* of the residency. This suspension might be caused by a business trip, educational leave, hospitalization, holidays, or an official function asked by the Lebanese government. If interrupted by a long absence or settlement in another country, the person should restart a new residency period if still interested by the Lebanese nationality. This new period will exclude the previous one. Finally, the residency should be legal i.e. entering the country illegally will not be taken into consideration.

Conditioning the acquisition of nationality by a permanent residency of five years as a sufficient mean for homogeneity, the legislator ignored other important factors that might play a major role in this unity¹. Therefore, the Lebanese legislation does not, for example:

1- impose knowledge of the mother language as a prerequisite for naturalization

¹ If compared to the Syrian legislation, article 4 states in its §1:

“it is possible to earn Syrian nationality by a foreigner, if the following conditions are fulfilled:

- 1- being adult
- 2- applying a formal application
- 3- preceding the application (petition) of at least a permanent 5 years residency (or more)
- 4- having a good legal record and healthy body with no medical problems(put under test)
- 5- holding a specialization or experience being able to benefit form it, or that do not compete with the local professionals and workers
- 6- speaking, reading, and writing the Arabic language
- 7- changing the foreign name by an Arabic one according to the law, if necessary

§2 of article 4 states”

“the legal adult age regarding nationality is exactly 18 years”

- 2- foresee the Libanization of foreign name of the applicant
- 3- protect social interests by requiring a good legal record of the applicant
- 4- oblige the applicant to have a legal financial source for a living
- 5- precise the legal adult age, but being implicitly deduced by the Lebanese law as being 18 years
- 6- constrain the loss of original nationality as a prerequisite to acquire Lebanese nationality
- 7- differentiate between men and women from their right for nationality application
- 8- require application for nationality, right after the end of the fifth year, for the applicant might apply for it years after his fifth year

The Lebanese legislator might not have wanted to go in detail by putting such kind of conditions, leaving the liberty for the administration to exercise its evaluating power and means by granting the nationality. On the other hand, the Lebanese legislator should have not left place for arguments, since other Arab countries stated it very clearly in their legislation.

To detail, if taking the fifth point which is loss of original nationality as a prerequisite for Lebanese nationality, the Lebanese legislation opens the door for the possession of a dual nationality and all its implications.

The sixth point does not tell if a woman of Lebanese origin married to a foreigner needs the approval of her husband for the regaining of nationality. We can find in the fifth article of the Law of 1960 which states that a married woman should get the approval of her foreign husband for her reintegration in her original Lebanese nationality.

b- the permanent one year residency

This decrease of duration is due to the fact that the Lebanese legislation noticed in the case of the foreigner married with a Lebanese woman a good catalyst for his

homogeneity into the Lebanese society. This marriage should be valid, and not only a means for naturalization. The spouse should be Lebanese not only at the time of marriage but also at the time of presenting the application. It is not logic for the husband to apply for Lebanese nationality while the wife canceled her original nationality in order to acquire her husband's nationality.

c- the exemption of residency

This case is mentioned in the article 3 of the decision 15s of 1925. It gives the President of the Republic, and after investigation, the right to grant the Lebanese nationality "based on the foreign applicant, who fulfills some important services for the interest of Lebanon. His grant should be explained and detailed". This kind of naturalization is somehow a reward for the foreigner for his services provided to Lebanon. The legislation did not specify what kind of services to consider. But we can find some explanations such as in the decision n°160 of July 16, 1934 that "can be considered in he case of active service in a private army if the duration exceeds two years".

d- being originally from Lebanon

In addition to the article 3 of the first paragraph of decision 15s, January 19, 1925 that defines the three cases on which naturalization can take place, we can add a fourth special case. This special case was mentioned in the article 2 of the law January 11, 1960 stating "Lebanese nationality is granted to the person being of Lebanese origin, coming to settle definitely his interests in Lebanon, and applies for nationality".

The legislation did not explain the meaning of Lebanese origin. However, the meaning is within the text that it was considered originally from Lebanon, the Ottoman citizens that used to live on the Lebanese province. For the member of this category had the right to chose the new Lebanese nationality, but their residency outside the territory prevented them from exercising this right. As such, those who wanted to come and settle definitely in Lebanon are given the chance to

apply for the Lebanese nationality. Their application would be of a special kind. Their acceptance into the Lebanese nationality would be a duty of the government vis-à-vis this category.

In this category we also can find gaps between the text and its application. There is no clear explanation of the “definite residency” in Lebanon. Is it simply living in Lebanon or the transfer of his business to Lebanon? Here, it is given to the judge who is looking into this case the freedom to decide according to given circumstances, the explication of definite residency. One more thing, once settled in Lebanon, this person might leave the country once in a while for business purposes. This leave or absence is not to be considered as a non stable residency.

2- The formal conditions:

Based on the third article of the decision 15s, there are three major conditions for naturalization to be taken into consideration:

a°- first condition: The application petition (see appendix)

The applicant for naturalization should apply to the Civil Status Directorate in the Ministry of Internal Affairs. Attached to the application, necessary documents should exist such as a personal statement proving nationality and marital status, in addition to the fees, personal signature on the form, and if married the signature of the spouse and adult children who wish to obtain Lebanese nationality. The minor children follow automatically their parents without their consent.

b°- second condition: The investigation

The application will be listed on the local register where the applicant resides. Then, the judiciary police will investigate on the fundamental conditions of the foreigner requesting Lebanese nationality (such as the residency, the good reputation, kind of jobs performed, original nationality, activities performed,

membership in any political parties, etc., ...). Such inquisitions are not mentioned by the legislation as a prerequisite. It is given to the Administrative power to conduct such investigations.

c°- third condition: The decision of the President.

If the Ministry of Internal Affairs formulates a favorable opinion on the petition, then it will submit its report of acceptance to the President of the Republic through the Prime Minister after taking into account the opinion of the External and Emigration Ministry. Afterward, the President makes the final decision on granting the Lebanese nationality to the applicant.

Once approved by the President, the file will pass to the Civil Status Directorate to formulate the decree. Next, this decree should be signed by the minister of Internal Affairs, by the Prime Minister, and by the President of the Republic. Later on, the decree will be published in the Official Gazette. Without this publication the decree would be deprived of any legal and executive validity vis-à-vis the third party. For the applicant, the approval is effective upon notification.

Acquiring Lebanese Nationality by Choice: Under the mandate, Lebanon was not free to formulate his own policy of nationality. In accordance with its self-interest, the French-mandate government drew the policy after the final detachment of Lebanon from the Ottoman Empire, and this remained effective until the end of the mandate in 1943.

Sometimes this policy coincide with the Lebanese interest and sometimes it contradicted. We are going to study three cases of policy formulation.

The first case pertains to the nationality of former citizens of the Ottoman Empire. Indeed, this is generally true in the case of readjustment of political boundaries. Nevertheless, the natural outcome for each redefinition of boundaries is the loss of

existing nationality and the gain of another. In this case, different theories address this problem: residency, origin, and a combination of both.

The theory of *Residency* states that each former citizen of the seceding territory who used to live during the annexation date on the land, has the right to acquire the nationality of the new country encompassing the territory.

Secondly, the theory of the *Origin* states that each person born in the seceding territory, has the right to the nationality of the new country.

At last, combining both preceding theories by taking from each one a specific amount of consideration will cover cases of persons related in the seceding territory without living in it, and persons living in it without having any original bound with it.

The second case concerns the Lebanese emigrants. The Lausanne treaty of July 24, 1923, took into consideration the double edged theory, i.e. the *Residency* and the *Origin*, in order to determine the nationality of the Lebanese and the Syrian people after they left the Ottoman Empire.

In the case of the resident, the residency theory was applied and Ottoman subjects living in Lebanon on August 30, 1924, got the Lebanese nationality. In the case of the emigrants, the *Origin* theory was applied. Persons originally from Lebanon who were Ottoman subjects, living outside Lebanon on August 30, 1924, could acquire the Lebanese nationality if they applied within two years. Several agreements took place between Turkey and France, the mandating country over Lebanon and Syria, in order to clearly define international boundaries between Lebanon and Syria. Accordingly, the two-year deadline has been postponed several times.

The third case involves the Iskenderun's refugees.

On June 23, 1939, the district of Iskenderun, Syria, was stripped off the Syrian territory, in accordance with the French government being the mandating country over Syria, and annexed to the Turkish government. As a consequence of this act,

and by applying the theory of changing sovereignty, the Syrian nationality was suspended from all the Syrians living in this district, and the Turkish one replaced it. Concurrently, France gave the right to these citizens to choose the Syrian nationality. In the same manner, it gave them the chance to acquire the Lebanese nationality in accordance with the conditions stated in the French-Turkish agreement.

REINTEGRATION OF NATIONALITY

Frequently, nationality legislation does not make a clear and definite cut concerning citizens who lost their nationality. The state will always try to keep contact with them. The Legislator considers that there are circumstances that push citizens to lose their original nationality.

In other words, reintegration would only affect the original Lebanese whom lost their Lebanese nationality for one reason or another. This reintegration would not include the naturalized whom lost their acquired Lebanese nationality. Therefore, the reintegration differs from the acquisition of nationality in virtue of the law of January 31, 1946.

One case of loss of nationality would be citizens under occupation. Between 1871 and 1914, Alsace and Lorraine French citizens were forced to give up their nationality under German occupation.

A second case would be the married woman who acquires husband's nationality and lose her own original one. If marriage is canceled as a consequence of divorce or death, all existing link between the wife and the husband's state would vanish. The woman would prefer than to regain her original nationality.

Last, there is the case of citizens who lose nationality as a punishment, such as working for the interest of a foreign country, or by acquiring foreign nationality, etc.

This deprivation should not be definite. For this reason, many countries reformulate the theory of reintegration of nationality.

In the Lebanese legislation, Article 7 of the decision 15s mentioned only one case of reintegration. Article 7 would talk about the Lebanese female who lost her nationality by marrying a foreigner. If definitely settled in Lebanon, she can regain her Lebanese nationality by a decree issued and signed by the President of the Republic. In like manner, the minor children are also reintegrated in the Lebanese nationality as it is implicitly stated in article 4 of the decision n°15s “become Lebanese the minor children of a father or a living mother that would be naturalized Lebanese”¹. No other cases of reintegration besides married woman were mentioned in the Lebanese legislation.

Article 7 of the decision 15s was modified by the law of January 11, 1960, as follows: “It is allowed for the woman who lost her nationality due to her marriage with a foreigner, to regain it upon her request and after cancellation of marriage”.

Conditions

The conditions required for regaining nationality only for a woman married to a foreigner, according of the modified Article 7, are²:

¹ Baz. “Etude Sur La Nationalité Libanaise”, p.154

² Abou Dib, “The Lebanese Nationality”, p.226

- 1- Regaining nationality is requested after cancellation of marriage with a foreigner. This cancellation should be issued from the same power that married them. In case this power does not dissolve marriage whatever the conditions are, then the woman in question cannot regain her original nationality.
- 2- Regaining nationality does not impose on the woman to live definitely on its territory. It was imposed by the old article 7, but was not adopted by the new law of January 11, 1960.
- 3- The woman asking for reintegration should have lost her original nationality by marrying a foreigner, and not by deprivation. The woman in question should be originally Lebanese and not one of her ascendant. Then, upon her demand, she was censured from the register. This situation does not oblige her to renounce the husband's nationality.¹
- 4- Regaining nationality will include all Lebanese female married before the census of 1932. Consequently, the female was not registered as Lebanese in the census. Once the marriage is canceled, she might apply for reintegration.²
- 5- The woman should apply for the regain of nationality. She should present her original Lebanese nationality document along with the certificate of marriage cancellation¹.

Procedures

The law does not precise the procedures for reintegration. It does not even designate the competent power to ascribe it.

Article 7 of decision 15s was relatively more detailed about the procedures of reintegration. Its modified version by the Law of January 11, 1960, lacks precision.

¹ Abdallah, "Comparison Between the Arab Syrian Nationality and the French Nationality", p.155

² Baz, "Etude sur la Nationalité Libanaise", p.157

Thereby, the normal flow of steps to follow are inspired from the naturalization procedures.

The application for reintegration should be submitted to the Minister of Internal Affairs. The applicant should prove her original Lebanese nationality before her marriage with a foreigner. In addition, proof of marriage cancellation should also be presented. The application will be transferred to the Civil Status Directorate to investigate. Neither living on the Lebanese territory nor renouncing acquired nationality, do constitute a prerequisite anymore for reintegration. Once reintegration is approved, a presidential decree is signed and become effective from the date of publication in the official gazette.

Effects of reintegration

a- For the wife who regained nationality:

Reintegrated woman would enjoy immediately all rights of citizenship with no backward effects. She will not be imposed any of the incapacity inflicted upon the naturalized persons That is, she will benefit of full and equal citizen rights with no deprivation whatsoever. Furthermore, the wife regaining her original nationality will not be subject to the Law of October 9, 1962, concerning only naturalized persons, and which are, as follows:

- 1° - judgment of a naturalized person for one of the crimes against national security.
- 2° - if belonging to an association which forgo any conspiracy or attempt against national security.
- 3° - if belonging to a dissolved political association, or unlicensed association.

¹ The cancellation of marriage would include death of the husband or divorce. The physical separation is not considered legally as cancellation of marriage bound. Therefore, the woman is not allowed for reintegration of nationality.

b- For the children:

1° - if the child is adult: He will keep his father's nationality. In case he wishes to have Lebanese nationality, he will have to apply for it under the naturalization conditions.

2° - if the child is minor: The law did not mention anything about this issue. For it is implicitly agreed upon in the Article 4 of decision 15s, that minor children should acquire mother's nationality as it is the case in naturalization. They will have the right to refute this decision after the first year of their legal adulthood.

IMPLICATIONS OF THE SECONDARY NATIONALITY

Each person acquiring a secondary nationality will be considered from now on as a citizen of this new country this consideration grants him rights and involves duties.

Application of these rights and duties differs from one country to another, for each state puts the naturalized person on a different level. Some states would put the naturalized evenly with the local nationals, other states would put him first under a trial period. The second case which is adopted by the Lebanese government, is usually used to make sure that this naturalized is in harmony with the local society, that he is loyal to the country. This trial period would prevent him of some privileges and rights that the native enjoys. These preventions would involve different activities such as political and professional. For these activities are a threat to the national security. Withdrawal of nationality can take place during this probation period if the naturalized manifests unwillingness to become a

homogeneous part of the community, or if he reveals disloyalty or commits crimes against public interests, etc. ...

In sum, the consequence of naturalization would affect both the individual person in question and the members of his family.

Individual Implications

Acquisition of nationality, either by the three cases implied in article 3 of Law 1923, or the case stated in article 2 of Law of January 11, 1960, or by the case of mixte marriage (article 5 & 7 of decision 1925) or by reintegration (article 7 of Law 1925 and modified by article 4 & 9 of Law 1960) gives the right to the naturalized to become a Lebanese citizen. This right becomes effective from the date of decree publication in the Official Gazette. The naturalized is therefore put under a test period, prohibiting him from certain rights until the end of that period. This incapacity is either political or professional.

Political Incapacity

1°- Candidature

According to article 6 of the Law of August 10, 1960 "the naturalized cannot be elected as deputy until 5 years of the date of his naturalization".

This comes in contradiction with the Law of June 7, 1937 that gives 10 years from the date of his naturalization to occupy any of the public functions or governmental ones, like in public administration or patentee companies.

Finally, the Law of April 26, 1960 that replaced that of August 10, 1950, put an end to this contradiction in article 6 that specified 10 years as the legal period for the right of presenting candidature. No exemptions are made whatsoever the

services provided for the interest of Lebanon. On the other hand, the naturalized has the right of candidature, with no required period of naturalization, for Municipal Council and for the Chamber of Commerce and Industry¹.

2°- Vote

There is no restriction for election. Thereof, from the date of naturalization, the naturalized has the right to vote or elect the person he wants.

Professional Incapacity

1°- Governmental Functions

Last paragraph of article 3 of decision 1925, added by the Law of June 7, 1937, states that “a naturalized foreigner cannot apply for a public function or job that will be remunerated by the government, or even for public administration or patentee companies before 10 years of the date of his naturalization” .This regulation was followed by other decrees emphasizing this point, such as article 4 of decree n°112 of June 12, 1959, stating that any candidate applying for a public function should be Lebanese for at least 10 years. The first article of this law distinguishes between the permanent function and the provisional (temporary, conditional) functions.

The Law of June 7, 1937 is more general, it including any kind of public function or job remunerated by the government, public administration, or even patentee societies.

2°- Municipal Functions

Based on the Law of June 7, 1937, different functions in the Municipal Council are also restricted for the naturalized such as engineers, physicians, accountants, etc. ...

¹ Article 14 & 15 of Municipal Law of May 29, 1963 and decree n°36 of August 5, 1967

3°- Liberal Professions

a°- Lawyers: article 4 of Law of December 13, 1945 forbid the access of naturalized lawyers to tribunals before 10 years of his naturalization. It even excludes the right for a lawyer to practice professional training¹. For this sector is considered to be one of the most important vital sectors for the state

b°- Physicians, Dentists, and Pharmacists: the naturalized does not have the right to exercise his profession if he does not justify his permanent residency (uninterrupted one) of 5 years in Lebanon after his naturalization. In addition to the 5 uninterrupted years residency, he should get the permission to work in the profession.

Whereas the naturalized of Lebanese origin is exempt from the condition of 5 years permanent residency¹. He can work right away.

c°- Engineers: article 3 of the Law of January 22, 1951 regarding engineering profession requires the same previous conditions for physicians, dentists, and pharmacists.

d°- Journalists: even though paradoxical, article 22 & 23 of the Press Law of September 14, 1962 do not impose any incapacity on the naturalized. Thus, he can be owner, director, or writer in a journal.

Family Implications

Article 4 of the decision n°15s defines that “a woman married to a foreigner who is naturalized Lebanese, and their adult children, have the right, if they apply, to acquire the Lebanese nationality with no residency condition. They can obtain it either by the same the law granted to the father, mother, or by a special one. Minor

¹ Tyan, “Précis De Droit International Privé”, p. 532

children follow the nationality of their parents, when the parents change their nationality through naturalization, the nationality of the minor child changes accordingly. The minor children have the right to decline it within the first year of their reaching legal adult hood”.

In short, when naturalized, the whole members of the family are affected: the wife, the adult children, and the minor ones. They can either apply for naturalization individually or with the father’s petition. In both cases, they are privileged from the exemption of residency imposed on the father’s. By that, the Lebanese legislation have implicitly adopted the family unity theory.

The Wife

The naturalization of the husband does affect directly the wife without her consent. She can keep her original nationality. However, if she desires, the law gives her the chance and does not oblige her to apply for naturalization either with the husband’s application or individually, without the prerequisite of residency².

The Adult Children

The nationality of the adult children does not changes automatically with that of the parents.. It is definite. However, like in the case of the wife, the law gives them the opportunity to apply for naturalization without the residency condition: it is a favor granted because their parents are becoming Lebanese³.

¹ Article 2 of the Law of December 26, 1946; article 1 of the Law of November 29, 1948; article 4 of the Law of October 31, 1950.

² Article 4 of the law n°15s

³ Ibid.

The Minor Children

It is never a question of choice for the minor children, for they have to follow automatically their parents (the mother if the father is dead). It is given to them to refute this new nationality within the first year of their legal adult age. If this refusal is not done within the first year of adulthood, the nationality is therefore definite and cannot be rejected¹. Minor children include legitimate children, legitimized children, or natural offsprings.

¹ Ibid.

LOSING THE LEBANESE NATIONALITY

The loss of nationality is a serious issue directly related to governmental policies regarding nationality in general.

Indeed, each country is free to set its own legislation, regardless of any general national principles. For it will legislate in the best way to serve citizens' interests and benefits, nevertheless controlling their activities.

The reasons for losing nationality could be either upon the person own will by giving up the born nationality for the sake of another one, or upon government will as a result of unworthiness.

Therefore, the loss of nationality is of two nature: either voluntary or deprivation as a consequence of a punishment.

Voluntary Loss of Nationality

The decision 15s, modified twice by the law of January 31,1946 and January 11, 1960, stipulates four cases of voluntary loss of the Lebanese nationality¹: first by acquiring foreign nationality, second by renouncing acquired nationality, then due to marriage, and finally by expatriation.

¹ Baz, "Etude sur la Nationalité Libanaise", p.123

Acquiring foreign nationality

1°- The conditions required

The first article of the 31st of January 1946 law in its first paragraph, modified by the law of October 9, 1962, stipulates that “lose the Lebanese nationality upon a presidential decree the citizen that acquire foreign nationality”.

First condition: The entitlement.

Changing nationality is a very important matter. For this reason, it should be taken with a certain degree of responsibility that could estimate its dangerousness. It follows that the person wishing to change nationality has to reach the legal adulthood, i.e. eighteen years and a sane mind. Minor children, even though legally represented, cannot dispose of his nationality, neither the legally arrested person nor the insane. The married woman has the legal right to change her nationality. However, scholars do not recommend it because this change affects the family basis.

Second condition: The granted nationality.

A foreign country granting its nationality for a Lebanese without a formal application will not be a reason to lose Lebanese nationality. For instance, after a none stop living in a foreign country, born in it, or getting married with a female foreigner, the local legislation grants its nationality to the Lebanese.

Third condition: A previous permission.

Preceding the acquisition of a foreign nationality, the applicant should be authorized by a presidential decree. In the case of absence of that authorization, the applicant will keep Lebanese nationality (Lebanese Appeal #103, 1956). If the permission was issued after the acquisition of the foreign nationality, the loss of the Lebanese nationality will take place from the date of the permission and not from the date of acquisition. Besides, the license can be implicit, and it is proven when the Lebanese government admit the acquired nationality.

Fourth condition: Requested foreign nationality.

The Lebanese Law is very strict in this matter. Losing Lebanese nationality will be a consequence of acquiring a foreign nationality.

2°- The effects of loss

For the naturalized person in question: The naturalized will become foreigner from the time he get foreign nationality, without any backward effects. Consequently, the naturalized will be subject to new rules and regulations regarding foreigners. This change in nationality will have no effect on the marital stays unless both spouses change their nationality. Than, the spouses will have to submit to the new rules and regulations concerning marriage¹.

For the family of the naturalized person:

- a°- The wife: The loss of nationality for the Lebanese will not affect his wife, for the loss has no collective effects. She will not lose her nationality unless the conditions of an independent person were available. If the new nationality law of the husband grants the wife nationality, than the wife will have both nationalities.
- b°- The adult children: Similarly, the adult children of a naturalized father will keep their nationality. Since naturalization has no collective effects.
- c°- The minor children: They will not lose French nationality if their French father got a foreign nationality.

The Lebanese legislator says that "the naturalized Ottoman father by a foreign nationality will only concerns the person in question and will not exceed the limits to include minor children born before the naturalization".²

(The decision of the Court of Appeal in Beirut #1835, November 28, 1958):
Based on this, we could say that the naturalization of a Lebanese father by a foreign nationality will not cause his minor children of losing Lebanese

¹ Baz, "Etude sur la Nationalité Libanaise", p.131

² Abou Dib, "The Lebanese Nationality". p.211

nationality. Nevertheless, when the father applies for a foreign nationality, he usually includes his minor children. As a consequence, new nationality will go for both the father and the minor children.

Renouncing acquired nationality

Minor children get the Lebanese nationality from parents whom are naturalized. Yet, article 4 of the decision 15s states that these minor children of naturalized parents have the right to deny this acquired nationality and go back to their original one. This denial should be presented within one year of their legal adulthood.

In sum, the conditions for denial are:

- a- the minor in question should have acquired Lebanese from one of his parents.
- b- the denial should be exercised in the next year of adult age, i.e. 18 years.

Marriage

Article 6 of the decision 15s, modified by the law of January 11, 1960, mentioned that “Lebanese woman married to a foreigner will have his nationality in condition that the husband's country will give her nationality. If not, she will have the right to keep her Lebanese nationality”. This is applied in order to avoid an apatride situation. In case of cancellation of marriage, the woman is considered as if she never lost her original nationality.

Consequently, the woman in question will not have a say in this subject. The law of January 11, 1960 has modified article 6. Lebanese woman married to a foreigner will not lose her nationality once gaining the husband's nationality. The loss is linked to her own will “she will remain Lebanese until upon her demand to be cancel from the register”. Consequently, the woman has the right to keep both nationalities.

In sum, according to the new text, Lebanese woman married to a foreigner will lose her nationality once deleted from the register. Therefrom, she will be subject

to law of her new country. This situation will remain in case of cancellation of marriage due to death or divorce.

Expatriation

Article 3 of the law of January 31, 1946, stipulates that “lose the Lebanese nationality the naturalized who leaves the Lebanese territory 5 years on a row”. This will not affect persons becoming Lebanese due to Jus Sanguinis, Jus Solis, or marriage, regardless the length of their residency outside the Lebanese territory. Yet, it was never applied due to control difficulties.

Children of the expatriated parents will not lose Lebanese nationality

Deprivation of Nationality

Loss by punishment

The Lebanese will lose nationality as a reprehension if he was serving foreign state's interests without an approval from his own country. In such a case, foreign country's interest might be in conflict with the interest of his original country. If he insists on keeping this job in spite of governmental warning, that means he gave up his loyalty to his country.

And this principle is taken from the law published on January 31, 1946, where it was mentioned in its first article the followings:

“Lose Lebanese nationality:

- 1-
- 2- “the Lebanese accepting in Lebanon a job given to him by a foreign government or by an office attached to a foreign country, without getting previously an approval from the Lebanese government. In case the government doesn't answer back within two months, that means the answer is no”.

The Lebanese living in Lebanon and accepting a foreign job will lose Lebanese nationality if this job would be under the supervision of the foreign government. It would be excluded liberal jobs such as medicine and law, if these last ones were not accomplished on a basic salary job.

- 3- "the Lebanese living outside the Lebanese territories and accepting public job granted to him by a foreign government, if insisting on keeping the job despite the warnings received to leave the job within a specific time".

Public jobs would not only include political, judicial, or administrative ones only, but jobs as teacher in some foreign universities¹ or any other diplomatic or consulate jobs. It would be excluded from the public jobs the practice of law or medicine, unless the doctor was appointed to be a military doctor by the foreign government.

Lose Lebanese nationality does not only results from accepting any public job. The Lebanese should receive an order from the Lebanese government to give up the job, before issuing the decree by which he will lose nationality.

- 4- "the Lebanese having a job given to him by a foreign government, if insisting on keeping the job despite the warning received to quit within a time limit".

Either living in Lebanon or outside it, this law is applicable when refusing to quit.

Reasons behind Deprivation

In the decision 15s, deprivation by expatriation was not mentioned.

After the attempt to a "coup d'état", done by the Syrian Popular Party the night of December 31, 1961, the Lebanese government noticed that some members of the PPS were Lebanese naturalized persons. As a result, the government presented a law project to the Chamber of deputies, that was adopted and published. This law n°10828 of October 9, 1962, including the followings²:

¹ Weis, "Nationality And Statelessness In International Law", II, p.37

² Baz, "Etude sur la Nationalité Libanaise".

"Lose the Lebanese nationality the foreigner that has acquired the Lebanese nationality by naturalization":

- 1- if he is condemned by any crimes or attempts against the national security.
- 2- if he belongs to an association that leads any conspiracy or attacks against the national security.
- 3- if he is a member of a political association (with political doubtless aims) especially with illegal status, or if he is condemned of accomplishing activities for the interests of that specific association.

The naturalized condemned of accomplishing activities for the interests of these associations, and the punishment would be of 6 months to two years of jail.

The sentence of the above law will not be applicable on persons who acquired the Lebanese nationality in different way than the naturalization. For instance, it does not hold true, first on persons born from a Lebanese father (*Jus Sanguinis*), second born on the Lebanese territory from unknown parents (*Jus Solis*), third on foreign woman that acquired the Lebanese nationality due to her marriage.

Besides, this same law cannot affect the wife and the minor children of a naturalized person who commit the attack.

Procedures of deprivation

Deprivation of nationality is an important and serious problem. Some scholars see it in conflict with the principle rules of the country as well as the principle of human rights.

"Who give can deprive". For this reason, depriving a citizen his nationality in general, could be achieved by a presidential decree approved by the cabinet.

On the other hand, depriving a naturalized person of the Lebanese nationality requires besides the presidential decree approved by the cabinet, a request from the Minister of Interior Affairs¹.

1- Lebanese who accepts in Lebanon a foreign job?

The decision will be taken by the Cabinet, and it is considered active from the time of its signature.

2- Lebanese who accepts a foreign job living outside Lebanon, or practicing a foreign job in Lebanon or outside, since the date of issuing the law?

The concerned person should be notified to quit the foreign job within a given deadline, before issuing a decree of losing Lebanese nationality. Therefore, losing the nationality will not come automatically after the note deadline time.

3- How the order is issued to the concerned person?

The order is issued to the person in question by the form of a decree, delivered to him personally. Accordingly, the person will be given a deadline time to confirm.

The French Law has determined the deadline time to six months. Yet, it gives the right to the concerned person, once the six months had passed, to prove, if any, that there was major forces that prevented him from giving up the job he was performing. The six months deadline will than start, after the cessation of the major forces or the absolute impossibility "Impossibilité absolue"².

4- Could the person refute the decree?

It is possible to refute the decree of losing the Lebanese nationality for accepting a foreign job, if the person didn't receive a previous warning. This contest has to be presented to the State Council.

¹ Law of October 9, 1962.

² Niboyet, "Cours de Droit International Privé Français"

It is in the power of the government, and only the government, to determine whether the job that the Lebanese had accepted, is against the national interest or not.

In conclusion, the Lebanese will lose his nationality once the presidential decree is signed and published in the Official Gazette. And starting this date, he will be considered foreigner with all the legal consequences, despite the fact that his personal status will always be linked to his sect rules and regulations. A good example would be the marriage in the Maronite church. If the person is now a French citizen and was divorced in the French civil court, he will remain a married person unless divorced in the Maronite church.

CHAPTER III

LEBANESE NATURALIZATION

After a review of the laws regulating naturalization under the Lebanese legislation, this chapter introduces the history of nationalization in Lebanon. There will be an explanation of the different statelessness categories that existed in Lebanon. Then, we will reach the final act of collective naturalization that took place in June 20, 1994.

NATURALIZATION IN REALITY

Since the independence of Lebanon, naturalization became one of the most important matters of the newly independent state. Those of the inhabitants, who could not get a Lebanese nationality due to many different reasons, tried to regain one. Those foreigners, living on the Lebanese territory tried to get one as well. These attempts created a problem of a different kind, mainly of a political aspect. This problem arises from the fact that Lebanese democracy is based on a quantitative religious equilibrium which distributes the governmental posts on a quota basis to the number of the Lebanese belonging to this sect or the other.

The Census of 1932

The census of 1932 provided the only reference to the number of the Lebanese population and its religious distribution. Nevertheless, this census left out a number of Lebanese who could not be registered at that time. Some of the reasons are:

- 1- abstention of a great number of inhabitants to register in this census due to the French mandate for the political reasons.
- 2- carelessness of this census from the side of the population
- 3- neglecting to present some proof documents of being Lebanese

Thereupon, a huge number of Lebanese inhabitants did not get the new Lebanese nationality. In addition to this group of people, other categories could be added. This first category includes children of the South area of Lebanon, known as the 7 villages. They were citizens of Great Lebanon. Yet, with the new redefinition of boundaries declared in Sykes-Picot Agreement, this whole area was annexed to Palestine. Second category is that of the Arab Nomads who traveled perpetually between Lebanon and Syria and stayed mainly in the area of Wadi Khaled in the North of Lebanon at the North-East frontiers. Included in this category are the Turkman who moved to the Bekaa valley. Thirdly, a number of Kurds, Syriacs, Kaldean, and Assyrians ... fled from their cities to Lebanon before and during the French mandate. Besides, these three categories, there exists a fourth category which includes Arab foreigners (like Syrians and Jordanians) and European foreigners who used to live on the Lebanese territories.

Independence

All these groups did not hold a Lebanese nationality. In the mid 60's, some of them presented their cases to the courts and they obtained their Lebanese nationality. Consequently, around 12 government employees were expelled from their posts because this operation was a scandal and included bribes. This fact was publicly denounced by the National Dialogue Committee and the Committee of the Political, Economic, and Social Reforms. This committee started its work in 1975 with the beginning of the Lebanese war. The committee included the ex-Prime Minister Rachid Karamé, ex-Prime Minister Sa'eb Salam, Pierre Gemayel, Kamal Jounboulat, and many others¹.

Applicants for Lebanese nationality presented their claims to the political and religious parties till 1984. As a result, the subject was formally reopened. The Cabinet named 10 persons² to formulate a new naturalization project³. The result was a project for the solution of the hanging problems⁴. The events that occurred in the beginning of January 1985⁵ put the whole process on hold.

Due to the formal attention of the government a new committee was formed⁶ of the different religious sects (mainly Christians and Muslims) and was given the prerogatives to study the question of nationality and to present its claims to Prime Minister Salim El Hoss and Minister of Internal Affairs Abdallah Al

¹ An Nahar, July 2, 1994

² Hassan Oulwya, Haytham Joum'a, Issam Nehman, Adnan El Jeser, Mustafa Mansour, Maroun Helou, Joseph Abou Khalil, Henry Tarabay, Elie Issa, Nicolas El Amm.

³ Cabinet record n°34, 1984, Decision n°3

⁴ Oulwya, "The Lebanese Nationality"

⁵ At that time, Triparty Agreement was signed in Damascus between the leader of the Lebanese Force at that time Elie Hobeika, the head of Amal Party Nabih Birri, and the head of the Progressive Socialist Party Waleed Jounboulat. As a reaction, Samir Geagea rebelled against Elie Hobeika. This Triparty Agreement held within its pages a decision to put a new law regarding nationality and to regulate within a year all nationality problems.

⁶ This committee included: Habib Ephrem (Syriac), Mohamed El Ghouli (Shiite 7 villages), Mohsen Eid (Alawit), Chahé Barsoumian (Armenian), Mohamed Ali Ali and Jamal Jasem Ismail (Nomads of Wadi Khaled), Alfonse Bashir (Minorities), one representative for Maronites and another for Druz. An Nahar, August 24, 1988.

Rassy. The Prime Minister completely refused the results of the project¹. When the committee reached a dead end with the Prime Minister, they redirected their efforts toward the religious responsables of the different sects. They explained to them the necessity for about 100,000 persons to have acquire the Lebanese nationality for they lived now for years on the Lebanese territories in an “unstable and confusing situation”².

The religious responsables held a meeting, grouping:

Metropolitane Beirut for the Greek Orthodox Bishop Elias Awdé, Metropolitane Beirut for Greek Catholics Bishop Habib Basha, Bishop Mount Lebanon Georges Saliba for Syriac Orthodox, Bishop Antoine Baylouni representing Syriac Catholic, Bishop Roufael Bdaweed for Kaldeens, Father Boutros Awad representing Evangelical Protestant, lawyer Neemtallah Abi Nasr representing the League, Henry Sabella representing the Latin sect, in addition to the different Christians and Muslim sects’ representatives designated for nationality issues. The group members studied the file of the previous committee. They presented the case to the Mufti Hassan Khaled who approved their step. The Mufti asked the bishops to plead the case in front of the Prime Minister Salim El Hoss³.

The committee delegate, formed of 8 members⁴, visited the Maronite Patriarch Nasrallah Boutros Sfeir and explained to his Excellency the human and social misery regarding thousands of families living in Lebanon for years endured the consequences of the war years. This proved their attachment to Lebanon⁵. This misery covers all aspects of life ranging from nationality, passport, belonging, right for ownership, education, hospitalization, moving around, marriage and

¹ Ibid., Salim El Hoss refused to be part of this project, as he explained it in his book “A’hd al Karar wal Hawa”, because bribery was the dominant factor of this operation. *An Nahar*, July 2, 1994.

² *An Nahar*, August 24, 1988.

³ *An Nahar*, September 6, 1988

⁴ Formed of Habib Efrem, Mohamad Ali Ali, Jamal Ismail, Khaled Omeirat, Mahmoud Fattah, Mohamad El Ghoul, Alfonse Bashir, Chahé Barsoumian.

⁵ *An Nahar*, September 10, 1988

children registration, etc. ...Leaving these families to their misery deprives them of their simplest human rights.

Due to the war events that took place in Lebanon between 1988 and 1990, the application for Lebanese nationality decreased. However, the signature of Taef Agreement implicitly states the necessity to formulate a new law regarding nationality¹. Following this step, demand to start this new project increased². Hariri's Cabinet designated a committee headed by Michel Eddé to study and prepare a new nationality law. The purpose of this project is to define who deserves a Lebanese nationality and who does not. The committee delayed the project pushing the Cabinet to open the doors to apply for naturalization for those who request it. The President issued decree n°5247 dated June 20, 1994 as a result of the Cabinet's act.

Consequently, some 90,000 adults were naturalized. This event was considered as a miracle³. This decree was published in the Official Gazette, year 134, special supplement n°2 for the issue 26, dated Thursday, June 30, 1994, including 1,280 pages. This decree lists four major categories:

- 1- nationality under study
- 2- without registration⁴
- 3- 7 villages
- 4- different foreign nationalities

¹ Taef Agreement signed on October 22, 1989, ratified by the parliament on November 5, 1989, that a new project of nationality law requires for its implementation the approval of the 2/3 of the parliament members.

² An Nahar, December 8, 1990 demand representing the Kurds and An Nahar, June 5, 1991 demand representing Wadi Khaled.

³ An Nahar, March 10, 1995

⁴ Bakaar, p.142-143. Are the ones that did not register in the census of 1932 either they were absent at that time, or they did not live on the Lebanese territories, or their parents neglected their registration. This category can present a claim for reintegration.

The second step of the Cabinet was to reopen the doors for new nationality application¹. Ministry of Internal Affairs prescribed a deadline time between 21 of March and 29 of October 1995.

DEFINITION OF THE DIFFERENT NATURALIZED CATEGORIES

In the following pages, definition of the Seven Villages, Nationality Under Study and Unspecified Nationality, the Arab of Wadi Khaled and the Nomads, will be detailed and explained.

The Seven Villages

In reality, the area known under the name of the 7 villages, counts 25 villages all in all. The main 7 villages are: Honyn, Salha, Terbikha, Koudss, Malkieh, Ibil al Kameh, Naby' Yousha'. The rest of these 25 villages are: Akrat, Jardieh, Zouk Atahtanieh, Addara, Hanouta, Almoutele, Lakita, Alkhassab, Alsahieh, Alkhalsa, Allathatha, Alna'ma, Alzoukieh, Alsinbarieh, Dafneh, Khyam A'bss, Arab Tehyouat, Arab Alzahran².

These villages belonged originally to Lebanon but were detached from Great Lebanon in 1922 and annexed to Palestine according to Paulet-Newcomb

¹ An Nahar., March 10, 1995.

² Some of these villages have been completely deleted from the world map and replaced by new camps for the European Jews that came to settle in Israel. Such is the case of Salha that was destroyed and near its placement a new one was established.

Treaty. These 25 villages, in Lausanne Treaty of August 30, 1924 were officially declared to be Palestinian territories. Consequently, the natives became Palestinian citizens and lost their Lebanese nationality.

This redefinition of frontiers was done on purpose due to its strategical positions, economical and archeological importance. This area is a chain of hills that dominates most villages of Jabal A'mel and reaches the sea, and some of Galilee and its surroundings¹. As a result, 2/3 of this area became outside the Lebanese international frontiers, and only the remaining 1/3, being unimportant in nature remained within its frontiers. However, the inhabitants of these villages were given the right to chose between the Lebanese nationality or any other until August 8, 1926. If not, they will be deprived from this right according to articles 32 & 33 of Lausanne Treaty. Consequently, after this date, any person who wished to apply for the Lebanese nationality was through naturalization and not reintegration. For they are from now on considered as foreigners living on the Lebanese territories². After the detachment, and before mid 60's, around 8,000 inhabitants of these 7 villages were able to regain their original nationality through the courts, while the remaining ones were still excluded for political reasons, until 1994.

This act divided the nationality of the same family into two different citizenships. We could find two different nationalities within one family or parents holding one nationality and the children holding another. Decree n°5247 resolved such situation.

Two viewpoints were raised. The first one argued that those people should regain their Lebanese nationality and not be naturalized. While the other stressed

¹ An Nahar, July 1, 1994.

² The families of these 7 villages are actually distributed as follows (An Nahar, July 1, 1994):

- 1- Honyn: mainly in Beirut, Nabatyeh, Habboush, Kayfoun
- 2- Terbikha: mainly in Beirut, Adloun, Sarafand, Tayr Debbé, Ma'raké
- 3- Salha: mainly in Beirut, Nabatyeh, Adloun, Berj North, Chbarieh
- 4- Kodss: mainly in Beirut, Ghazieh, Abbasieh, Ansarieh
- 5- Malkieh: mainly in Beirut, Berj North, Jouaya, Najarieh
- 6- Naby Yousha': only in Beitut

on the fact that these people are like any other foreigner living on the Lebanese territories. This viewpoint bases its argument on the fact that no legal documents exist to prove they originate from these villages, nor they were Ottoman citizens for they have lost this status according to articles 32 & 33 of Lausanne Treaty. These proponents of the second viewpoint were mainly afraid of giving a replacement home for the Palestinians. This is why they spread the word of the inhabitation of the Palestinians which of course was denied by the government¹. The representatives of these 7 villages stressed that the Lebanese government possesses the records of these villages, related to the registers of Marjeoun and Bint Jbeil. These same files (or registers) exist also at the Refugees Rescue Agency. Therefore, the requirements were fulfilled.

In sum, regardless any of these two viewpoints, the government considered this category as any foreigner, granting them the Lebanese nationality and not considering them originally Lebanese and therefore regaining their nationality.

Nationality Under Study & Unspecified Nationality

Are considered not to have any specific nationality those who lost their original nationality for any reason, unwillingly, and who couldn't get another. Thus, they became without nationality, statelessness.

The number of statelessness cases increased mainly after World War I. This issue concerned the League of Nations a great deal². The Hague Convention of April 12,

7- Ibil Kameh: mainly in Beirut, Habboush , Yohmor, Kfar Kalla, Deir Mimas

¹ Prime Minister Hariri specified that all foreigner naturalized from 1948 to 1982, last date of naturalization before 1994 under the decree n°5247, did not exceed the 4,465 person. An Nahar, August 30, 1994.

² Between 1921 & 1924, under the supervision of the league of nation, an organization was formed, known under the name of NANSEN. NANSEN dealt with the problem of refugees of the World War I, issuing a

1930 signed by 59 states, included a protocol granting these refugees the nationality of the host countries. The result was a great decrease in the number of refugees. However, with the World War II, this number re-increased resulting with the same previous problems.

Many conventions took place under the United Nations supervision, but no final solutions were reached, due to politico-economic and social reasons.

Lebanon faced the same problem with the detachment of the Ottoman Empire. Many refugees fled their territories looking for protection. Armenians, Syrians, Kaldeen, and Kurds came to Lebanon.

Those who proved their residency in Lebanon before August 30, 1924, according to the decision 2825 of August 1924, were granted the Lebanese nationality.

Those who came to settle in Lebanon after this date were registered in the census of 1932 as foreigners, not having any specified nationality.

A third category included refugees who came after the census of 1932 and claimed being of the unspecified nationality group in order to legalize their residency. This category entered Lebanon by fraud. The Personal Affairs Administration issued a sojourn permit in order to facilitate their life. This permit was based on the mayor's declaration specifying their place of residency in addition to their original nationality. Finally, they were given identity cards of a unspecified nationality, that the General Security Forces will specify later on. Therefore, they will enjoy privileges which the foreigners were deprived of.

While reviewing their register, we can notice the following:

- 1- this non-specific nationality category was able to register their children as Lebanese, when born on the Lebanese territories.

NANSEN passport (Norwegian origin) in order to help these huge number of refugees to settle in the host countries.

- 2- a huge number registered themselves as singles while married. So later on, they could register their marriage under the category of unspecified nationality. Therefore, they enable them to obtain the Lebanese nationality to their children.
- 3- women being married to foreigners registered themselves as singles while marrying Lebanese men to receive the Lebanese nationality.
- 4- many mistakes surfaced from the difference of registration between the Personal Affairs Administration and the General Security Forces, i.e. between the sojourn permits and the ID non-specific nationality.

The party responsible for the investigation regarding the legality of these ID's should have not postponed it. Because, the procedures in the Administration were moving forward in finalizing the specification of nationality. Consequently, this category was granted an ID "Under Study".

To conclude, the foreigners' records in Lebanon was therefore divided into three categories:

- 1- the first category included those who specified their foreign original nationality
- 2- the second category included those who neglected registering themselves, not holding therefore any nationality.
- 3- the third category included those who denied the existence of any original nationality to hold an ID "Under Study". The Minister of Internal Affairs at that time, Mr. Kamal Jounboulat, helped and encouraged this category to pursue their search for their original nationality.

Finally, during the years of war, many foreigners were able to get the Lebanese nationality by different means either by bribery, or by fraud, or using some influential powers.

Arab Wadi Khaled and Nomads

This area falls in the North of Lebanon, situated in the North-East. It borders the Caza of Hermel from the East, the Valley of Bekay'a from the West with at the Lebanese-Syrian frontiers, the Great River from the North, and the villages of Akroum Mountain from the South.

Between 1,400 and 1,600 families counted of 12,500 to 18,000 persons that live under tents and like manner, populated Wadi Khaled.

This population divides into two tribes, Arab al Ghannam tribe and Arab al Atik tribe. They are distributed in 19 villages: Alramieh, Alhaytheh, Farha, Hnaider, Knaysé, Jeremnaya, Alkhalkha, Almkhaylbe, Alawada, Al'amayer, Rajem Khalaf, Rajem Issa, Rajem Saleh, Rajem Hssein, Dyareb, Karm Zydyn, Almajdal, Alkbayte, Alberj.

These tribes moved perpetually between Lebanon and Syria and other regional countries. Their situation was specified in the decree n°8837 of January 15, 1932 article 2: "are considered to be Lebanese tribes that spend 6 month a year on the Lebanese territories".

As a consequence, those who were not registered in the census of 1932 as inhabitants (in the census of 1921 under category A) were registered as foreigners (in the census of 1921 under category B which includes inhabitants not living on the Lebanese territories, and all foreigners). Those who feared the Ottomans and later on rebelled against the French mandate which conducted the 1932 census, excluded themselves from the census. As a result, they did not hold the Lebanese nationality.

The Lebanese took this fact into consideration and registered these tribes in a special register named Registers of Arab Nomads. These registers facilitated the travel through the Lebanese borders.

On the whole, the Arabs of Wadi Khaled are divided into three categories, from a naturalization point of view:

- 1- the first category holds the Lebanese nationality that was granted before 1950. It represents no more than 3% of the population. Yet, this category cannot transfer their nationality to the wife and children.
- 2- the second category holding ID under study represents a minority. However, this ID gives the right to its holder to move and work within the Lebanese frontiers. Yet, this ID does not grant them the right to hold a public job nor to elect or be elected for official posts.
- 3- the third category holds a permit to move and work only within the Wadi Khaled area. This category represents the majority of the people of Wadi Khaled Valley.

The same situation is applied to the Arab Nomads known as the Turkman.

The issuance of the decree n°5247 of June 20, 1994, being registered in the census of 1932 or not, granted those people a Lebanese nationality.

THE DECREE N°5247 OF JUNE 20, 1994

The next step of this study will be the analysis of the decree n°5247 issued in June 20, 1994. The distribution among the original nationalities will be devised, the number of family applications and single applications will also be discussed.

Then, a review of the different positions and viewpoints of this decree will be stated.

Analysis of the Decree

The last decree of naturalization was published in the Official Gazette, year 134, special supplement n°2 of issue 26, date Thursday, June 30, 1994. The decree number is n°5247, dated June 20, 1994 and consists of 1,280 pages. It starts as follows:

Decree n°5247

Acceptance in the Lebanese Nationality

The President of the Republic

based on the legislation

based on decision n°15 of January 19, 1925 regarding Lebanese nationality,

based on the naturalization application for Lebanese nationality of the people mentioned below,

based on the Minister of Internal Affairs proposition,

it follows:

Art. 1: was accepted in the Lebanese nationality, the persons named below: *(p.1)*

Art. 2: this decree is published, and therefore effective from the date of its publication. *(p.1,280)*

Baabda, June 20, 1994

issued on behalf of

The President of the Republic: Elias Hrawi

Prime Minister: Rafic Hariri

Minister of Internal Affairs: Béshara Merhej

While reviewing and analyzing the Official Gazette, the total number of applications approximated 40,000 naturalization forms. This number regards only the adults, to be more specific the single adults and the families. Therefore, we have two types of applications. The first type includes the single adult (one application per person) and the second type includes the family application. This second type can be divided into three sub-types:

- a- the family formed of the husband and the wife
- b- the family formed of the husband, the wife, and the minor children
- c- the family formed of the siblings

Even though the final number reached about 90,000 naturalized persons, we should keep in mind that some of the family applicants did not include the number of the minor children. For as it was explained previously, the minor children follow automatically the nationality of their parents.

This is why the estimated number is at least 150,000. This study will deal with both numbers accordingly.

If we consider the number of 90,000 naturalized persons, approximately 29,000 or 32% of the total are Christians and the remaining 61,000 or 68% are Muslims, as shown in the table on the next page.

**Table 1: Distribution
of the Naturalized
by Religion**

Original Nat.	Christians	Muslims	Total Number
7 Villages	342	13,228	13,570
Algerian	5	180	185
Argentinean	33	4	37
Australian	9	3	12
Belgian	7		7
Brazilian	13	6	19
British	112	26	138
Bulgarian	3		3
Canadian	29	23	52
Chilean	7		7
Colombian	5		5
Cypriot	14	4	18
Czech	1		1
Danish	1	1	2
Dutch	4		4
Egyptian	226	901	1,127
Finnish	1		1
French	304	20	324
German	16	2	18
Greek	312		312
Honduras	1		1
Indian	1		1
Iranian	59	374	433
Iraqi	430	362	792
Irish	1		1
Italian	88	1	89
Jordanian	565	857	1,422
Kuwaiti		2	2
Libyan	2	16	18
Malaysian	2		2
Maltese	1		1
Mexican	3		3
Morocan	11	33	44
Norwegian		2	2
Oman		1	1
Paraguayan		3	3
Peruvian	1		1
Philippine	2		2
Polonese	4		4
Portugese	5		5
Romanian	1		1
Russian	66	1	67
Saudi	1	24	25
Senegal	3	1	4
Singapore	1		1
South African	1		1
Spanish	19		19
Sudanese	25	2	27
Swedish	13	1	14
Swiss	9		9
Syrian	19,624	20,130	39,754
Tunisian	2	54	56
Turkish	184	187	371
U.A.E		1	1
U.S.A	91	21	112
Under Study - others	4,738	23,222	27,960
Uruguayan	1		1
Vatican	2		2
Venezuelan	20	7	27
Yemeni		19	19
Yugoslavian	7		7
	27,428	59,719	87,147

Source: The
Maronite League

We have to be cautious in dealing with the different categories of applicants. There are categories which deserve the Lebanese nationality more than the others since they are either without nationality or nationality under study. This situation prevented them of the basic rights of the inhabitants. These categories existed on the Lebanese territories since the creation of Great Lebanon. Yet, as detailed previously, they could not get a Lebanese nationality. Note that their applications did not require some necessary documents.

These categories include:

- 1- Arab Wadi Khaled: 12,000 persons
- 2- 7 Villages: 27,000 persons
- 3- Under Study and Unspecified: 23,000 persons

All these three categories belong to the Islamic religion. Therefore, out of 102,000 Muslims naturalized, 62,000 deserve the Lebanese nationality. Thus, naturalization became as a natural right for 61% of 68% of naturalized Muslims. The remaining 48,000 or 39% fall under the category of foreigner living on the Lebanese territories.

They are mainly distributed in Beirut (~ 8,000 naturalized), in Saida (~ 5,000 naturalized), and in the North (~ 20,000 naturalized).

In the North, these 20,000 names were registered in the electoral lists of the election of 1995 under a special register known under "North naturalized". As a consequence, these 20,000 are the applicants who have the right to vote. Therefore, what would be the exact number of minor children who are not mentioned? For this reason, these numbers are still ambiguous and cannot be specified without a new census.

Within the Islamic religion, the Sunnis, constituted of the Arab Wadi Khaled, of the persons Under Study, the Syriacs and the Kurds, were the great winners. While the Shītes were mainly represented by the 7 Villages population.

Within the Christian religion that represented roughly 48,000 persons, the main winners were the Armenians (originally from Syria mostly, Egypt, and those who lived on the Lebanese territories in Beirut, Borj Hammoud, and Anjar). The actual number of the naturalized Armenians is around 20,000 out of the 48,000 representing 42% of the total 32% naturalized Christians.

While conducting the analysis, the naturalized originating of Arab countries are mostly Muslims while the naturalized from European and American countries origin are mainly Christians. In addition, more than 17, 250 naturalized Muslims were listed in the Metn area¹ while not living there.

The adult naturalized numbers are listed in table 2:

¹ An Nahar, May 31, 1996

**Table 2: Distribution
of the Naturalized
by kind of
Applications**

Original Nat.	Family Appl.	Individual Appl.
7 Villages	3,380	2,177
Algerian	28	93
Argentinean	6	6
Australian	-	12
Austrian	1	1
Balaisian	-	2
Belgiean	1	3
Brazilian	3	12
British	22	74
Bulgarian	-	2
Canadian	11	28
Chilean	2	1
Colombian	-	5
Cypriot	4	10
Czech	-	1
Danish	-	2
Dounmoustanad	-	-
Dutch	1	2
Egyptian	173	636
Finnish	2	-
French	62	158
German	1	12
Ghay:mouda	2	9
Greek	64	123
Honduras	-	1
Indian	-	1
Iranian	83	172
Iraqi	190	382
Irish	2	2
Italian	21	43
Jordanian	302	491
Kuwaiti	-	2
Lybian	1	9
Majhoula	-	-
Maktoum	2,526	2,305
Maktoumgensia	2	1
Malaysian	-	2
Maltese	-	1
Mexican	-	3
Moroco	7	16
Norvegian	1	-
Oman	-	1
Paraguayan	-	2
Peruvian	-	1
Philipinese	-	2
Polonese	-	4
Portugese	2	-
Prague	-	1
Romanian	-	1
Russian	15	18
Saudi	4	14
Senegal	1	1
Singapore	-	1
Soudanese	6	11
South African	-	1
Soviet	-	5
Spanish	3	10
Swedish	1	5
Swiss	1	3
Syrian	9,651	9,429
Tunisian	9	25
Turkish	87	129
U.A.E	-	1
U.S.A	12	82
Under Study	4,074	2,842
Uruguayan	-	1
Vatican	-	2
Venezuelan	5	16
Yemeni	2	11
Yugoslavian	1	5
	20,772	19,424

**Table 3: Distribution
of the Naturalized
by Original
Nationalities**

Original Nat.	Family Appl.	Individual Appl.	Total Number
Czech	-	1	1
Dounmoustanad	-	-	1
Honduras	-	1	1
Indian	-	1	1
Maltese	-	1	1
Oman	-	1	1
Peruvian	-	1	1
Prague	-	1	1
Romanian	-	1	1
Singapore	-	1	1
South African	-	1	1
U.A.E	-	1	1
Uruguayan	-	1	1
Balaisian	-	2	2
Danish	-	2	2
Finnish	2	-	2
Irish	2	2	2
Kuwaiti	-	2	2
Majhoula	-	-	2
Malaysian	-	2	2
Norvegian	1	-	2
Paraguayan	-	2	2
Philipinese	-	2	2
Vatican	-	2	2
Austrian	1	1	3
Bulgarian	-	2	3
Mexican	-	3	3
Dutch	1	2	4
Polonese	-	4	4
Senegal	1	1	4
Colombian	-	5	5
Portugese	2	-	5
Soviet	-	5	5
Belgiean	1	3	7
Swiss	1	3	7
Yugoslavian	1	5	7
Chilean	2	1	9
Maktoumgensia	2	1	9
Swedish	1	5	11
Australian	-	12	12
Lybian	1	9	15
Ghayrmouda	2	9	17
German	1	12	19
Spanish	3	10	19
Yemeni	2	11	19
Brazilian	3	12	20
Cypriot	4	10	23
Saudi	4	14	25
Venezuelan	5	16	26
Soudanese	6	11	28
Argentinean	6	6	35
Moroco	7	16	42
Tunisian	9	25	45
Canadian	11	28	56
Russian	15	18	57
Italian	21	43	90
U.S.A	12	82	112
British	22	74	135
Algerian	28	93	181
Greek	64	123	297
French	62	158	339
Turkish	87	129	444
Iranian	83	172	446
Iraqi	190	382	933
Egyptian	173	636	1,113
Jordanian	302	491	1,372
Maktoum	2,526	2,305	11,424
7 Villages	3,380	2,177	13,779
Under Study	4,074	2,842	16,977
Syrian	9,651	9,429	40,086
	20,772	19,424	88,307

Standpoints of the Decree

The Lebanese views were mainly divided in two opposite sides: those who strongly support the issuance of such a decree and those who strongly oppose it.

Those who support this decree were mainly either from the political sphere, or members of the Islamic religion or those who benefited from it.

The naturalization committee welcomed this decree. This committee was formed of representatives of the different sects and religions. A festival took place in the hall of Sagesse, Ashrafieh, in July 17, 1994. Eminent figures were present. Habib Efrem, the president of the Syriac league, had an intervention, the deputy Talal El Merhebi, Khaled Omeirat Basem representative of the Bazkari Kurds Party, David Issa representative of the democratic group of Greek Catholics, the deputy Hassan Oulwya, the minister Chahé Barsouminan. During the festival, the representatives delivered speeches supporting and defending the decree¹. The families who benefited from the decree supported it strongly and described it as being a brave (heroic) act from the government side.

On the other hand, those who were against this decree were mainly Christians. Since the majority of the naturalized were Muslims, the Christians saw this decree as a major threat to their existence in a pluralistic- confessional society. They foresaw it as a threat because it resulted right after the non participation of the Christians in the elections of 1992.

Consequently, the Christians considered that the decree shambled the pluralistic confessional equilibrium of Lebanon. This equilibrium, between the two major religions of the Lebanese society, enabled Lebanon to endure, for centuries, the pressure by neighboring countries on its demographic and collective social mesh between Christians and Muslims. Lebanon is the land of encounter and integration

of the Oriental and the Western cultures. De Gaulle mentioned the coexistence of the two different cultures, yet living together in harmony

“Il ne faut surtout pas y toucher parce que c’est le seul lieu du monde où deux grandes cultures, deux civilisations ont réussi un dialogue permanent et quotidien. Et toucher aux assises du Liban, c’est porter atteinte à tout ce qui dans le Proche-Orient et dans l’espérance de l’avenir peut présenter des données certaines”.

According to this point of view, it was better to lay down a new nationality law defining who should get a Lebanese nationality and who does not deserve it. In addition, this decree did not include any emigrants right of Lebanese origin. The government did not provide them with an opportunity to help them come back to Lebanon even though the country will benefit from their experience on the different levels: national, economical, political and educational.

For this reason, the Maronite League petitioned to the Council of State a requesting for the cancellation of this decree. Its petition is still on hold.

After we have reviewed the two viewpoints regarding presidential decree n°5247, we will briefly discuss about the governmental new naturalization proposal.

In April 12, 1997, the state reopened the naturalization door for the Christians who have the required condition in order to reestablish the confessional equilibrium. The Ministry of Internal Affairs declared officially² that a supplement

¹ An Nahar, July 18, 1994.

² An Nahar n°19717 of April 12, 1997 and Al Hayat n°12461 of April 11, 1997

to decree n°5247 will be issued. The deadline period for presenting the application was between April 14 and May 14, 1997. This opportunity, therefore was opened only for the Christians.

The Christians refused such an act and did not approve it. The Christians were mainly afraid of settling the Palestinians on the Lebanese territories. For that, the Secretary General of the Maronite League, Neemtallah Abi Nasr, asked the government to freeze its move regarding naturalization. Rather, they asked the government to re-study the files of those who were naturalized in order to re-conduct and confirm their applications with all the legal requirements. He pleaded the government to ask those who were registered under the category of “unspecified nationality” the reasons of their refusal to declare their original nationality.

As a conclusion, decree n°5247 of June 20, 1994 had his advantages and disadvantages. During an interview¹, the Minister of Internal Affairs, Béchara Merhej, recognized the absence of balance between the naturalized Christians and Muslims. He adds that the rights of certain other communities were neglected, such is the case with the Arabs of Wadi Khaled and those who held a nationality under study. Because of that, the Minister of Internal Affairs, Béchara Merhej, continued by saying that the decision was taken to grant the Lebanese nationality to all those who had the right to acquire one regardless of their number and belonging. Because, by saving the confessional balance, the law will deprive those people of their basic human rights, which is against Justice and Democracy.

¹ Magazine, June 14, 1996

CHAPTER IV

THE LEBANESE EMIGRATION

THE LEBANESE EMIGRANTS IN THE WORLD

Four main phases of the Lebanese emigration may be distinguished. In the first, stretching roughly from the seventeenth century to the middle of the nineteenth, limited numbers of Lebanese emigrated to Egypt and the main centers of trade between Europe and the Near East. In the second, covering the second half of the nineteenth century and the first years of the twentieth, there was more or less an unlimited emigration to the countries of North and South America although the Ottoman government tried, at times, to restrict it because of the loss of potential recruits for the army. In the third phase, beginning after the World War I, the doors of the United States and other countries were closed to all but a limited number of entrants but new doors opened to Africa as the British and the French rule, in the west African colonies, linked those countries with the world market and provided the administrative basis for economic growth. A fourth phase began with the growth of the economies of the Gulf countries in the 1960's and the outbreak of the Lebanese war in 1975. The people who had families in the United States or had special qualifications were able to emigrate to the U.S. while others emigrated to Canada, Australia, Latin America and to Gulf countries. Once more, these Gulf countries had rapidly growing societies which needed skills of every kind. For that, they attracted craftsmen, teachers, officials, doctors and large-scale contractors.

Each of these emigration phases had a special character¹. Those who went to Egypt or Europe during the first phase were mainly Christian or Jewish merchants from the large cities of Aleppo, Damascus, and Beirut later on. Those who went to America in the second period were, to a great extent, young men from the Christian villages of the Lebanese mountains, many of them of humble origins and limited education. There were also emigrants of similar origin from the Druze villages. In the third period, a large proportion of those who went to West Africa came from the Shi'i villages of southern Lebanon. This was a result of both the growth of population and the integration of southern Lebanon into the administrative and economic system of Lebanon. This growth and integration created new possibilities of movement and an awareness of new horizons. In the most recent period, a large proportion (almost all) of the emigrants have been those with an education or a useful technical training from all communities.

The experience of emigration was a varied one. The stereotype of the Lebanese newly arrived in North or South America is that of the peddler. There were several other paths of entry into the economy of the country of settlement. Some who had the necessary education or capital resources entered the world wide network of textile traders, importing European woolen and cotton goods and distributing them.

When there were large Lebanese communities in a city or a district, they formed their own organizations. There were other kinds of association too: official or unofficial societies of immigrants from a single district or town, or even of a single extended family. The process by which immigrants were drawn into the life of their countries of settlement was complex and varied greatly. Outside the closed world of the family, the path of assimilation into a new society depended on the

¹ Hourani, "The Lebanese in the World". -p.5

nature of that society. Whatever the process of assimilation, it is a slow one. In many ways it took three generations.

Therefore, in studying emigration, we have to take into account the different stages which affect the composition of the emigrant stream.

The Lebanese Ministry of Emigration classified the Lebanese emigration into two categories¹:

- 1- First category are the Lebanese descendents. It consists of the ones who left at the beginning of the nineteenth century either for political reasons or for worsening economical reasons. They fled the Ottoman despotism, looking for more freedom, a better and respectful living.
- 2- Second category are the emigrated. It is formed of the Lebanese who were born in Lebanon and emigrated later after birth. This type almost includes all the categories of Lebanese from the different sects. This flow reaped a huge number of Lebanese intellectuals who were looking for better living and financial rewards.

These two categories of descendents and emigrated form the Lebanese spread in the world. This spread can be classified into four different categories:

One- The permanent residency where the Lebanese settled in these cities and did not come back as in America and Australia.

Two- The temporary residency where the Lebanese settled in the cities for a period of time and then came back. Such is the case of the Lebanese in Africa.

¹ Ministry of Emigration, "The White Book" December 1994

Three- The residency in cities which is almost not considered as an emigration type. It includes the Lebanese who left, sometimes without their families, seeking work. This is mainly the case to the Gulf states.

Four- The fourth category of residency consists of the Lebanese who had dual residency between the host country and Lebanon. This is the case of the Lebanese living in the European countries.

Permanent Residency

The permanent residency of the Lebanese in the host countries includes mainly the descendant type of emigrants. This permanent residency took place in the beginning of the century when the natives left Lebanon with the hope of coming back one day. The main host countries of these Lebanese were America, Australia, and Canada. They couldn't come back because of the long journey they had to take, the absence of communication means, worsening of the political and economical situation in Lebanon. It took a long and hard time for this category to base itself in these big cities and to create a convenient and stable life. According to some studies¹ conducted in the United States, the Lebanese emigrants to the American countries were mainly poor young persons, uneducated, who worked hard to integrate in these societies. As a result, the children of this category have no strong link with Lebanon. And with the next generation, they hardly corresponded with their parents in Lebanon.

¹ Ministry of Emigration, "The White Book", December 1994

Temporary Residency

Where the cities were close to Lebanon, the permanent residency became temporary. These cities were mainly in the African continent. When the American and Australian states put some restrictions on immigration, the Lebanese turned their destination to the African countries. A growing number of Lebanese became active in the manufacturing industry, banking, insurance, transport, agriculture, catering and hotel sectors, as well as in the liberal professions (physicians and lawyers)¹. They were able to make important financial profits. Their residency wasn't permanent because first of the closeness of this continent to Lebanon, second because difference of way of life of these new communities. As Mr. Fouad Turk explained, when a person moves to a lower level of living, it will be harder to integrate and therefore longs to come back to his origins.

The third type of residency, which is almost not considered as emigration, is destined to the Gulf States. The discovery of the oil in the Gulf and its development attracted a huge number of foreigners seeking better job opportunities and better financial rewards. However, the integration within these societies was almost impossible for the great difference between the Lebanese society and the host society.

Dual Residency

The dual residency is characterized mainly by the voluntary integration of the Lebanese in an advanced society and their love to adopt their "civilized manner" of living. This sometimes made it hard for them to come back to Lebanon, especially during the war, when Lebanon fell back years behind.

As a conclusion, the Lebanese emigration throughout the years included all Lebanese social classes and sects, mainly the young persons. This emigration was an intellectual and scholar drain of the Lebanese human resources which looked for a better standard of living.

Whether looking for adventure or for business, it may be helpful to take into account the conditions and motives of emigration²:

- 1- The evolution of transportation means whether by land, air, or sea. This evolution facilitated the travel and thus decreased the necessary travel time spent.
- 2- The evolution of telecommunication means which helped keeping contact with the emigrants. This played a major role in strengthening rather than weakening the link with the mother land.
- 3- The politico-economic turmoil in Lebanon and the neighboring countries throughout the century. This turmoil resulted in the instability of the economic and social sector.
- 4- The discovery of the oil in the Arab states created job opportunities.
- 5- The facilities that African, Australian, and American states had provided. This is mainly after the issuance of American immigration and Nationality laws in 1965.
- 6- The Lebanese who accepted to work in fields that he refused in Lebanon.

In short, whether permanent or temporary, the emigration is affected by different reasons ranging from climate characteristics to job opportunities, security, better and advanced living, local jurisdiction regarding politics, economy, and nationality, etc. ...

¹ Hourani and Shehade, "The Lebanese in the World", p.626

² Ministry of Emigration, "The White Book" December 1994

No organized governmental efforts were made to meet the needs of the Lebanese spread in the world. For this reason different approaches in dealing with the Lebanese emigrants in the world should be adopted. The Lebanese government cannot treat them all the same way. It should study each case of emigration and act accordingly for more efficient results.

THE LEBANESE EMIGRATING ASSETS

Fouad Turk classified the Lebanese emigrating resources and assets into four classes: political, economical, touristic, and intellectual.

Political Assets

Lebanon has a rich capital of important eminent political figures in the world. It ranges from presidential ranks, to prime ministers, ministers, ambassadors, high ranking state job, generals, etc. ...

The following is a sample of some Lebanese descendents and not an exhaustive one.

- * Julio Cesar Turbay Ayala, President of Columbia, 1978-1982¹
- * Paulo Maluf, Presidential candidate, Brazil, 1985
- * Edward Seaga - Prime Minister of Jamaica, 1980-1989
- * Alfredo Nasr - Minister of Justice, Republic of Brazil, 1928
- * Natalio Al Chidiac- Cuban Ambassador

¹ Hourani and Shehade, "The Lebanese in the World", p.626

- * Ambassador Philip Habib, US Diplomat and Under Secretary of state for political Affairs, 1976-1978
- * Selwa Choucair, America's longest Serving Chief of Protocol under the tenure of President Ronald Reagan, 1981-1988
- * His Excellency Michael Haddad, General in Austrian Army

These persons of Lebanese origin had some political activities supporting Lebanon in its various stages. However, Lebanon did not know how to benefit effectively from these people. Its demand was a diversified sectarian demand rather than a unified national one¹.

If a unified national request was presented, these Lebanese origin resources could:

- 1- defend the Lebanese case in a proper and well explained manner
- 2- seek help from their local governments, creating a powerful Lebanese lobbying.

Thus, we would have effected the world's interest and help.

Economic Assets

As it is the case for political assets, Lebanon has in the Lebanese diaspora a huge economic asset. Even though no exact figures exist to evaluate this sector, one could estimate this capital to millions of dollars, and even to billions.

Their help started on a lower level by sending financial support to their families who stayed in their native villages. By this act, the families were able to lead a life of ease and comfort, and to start local jobs. This situation helped the Lebanese economy to maintain an increasing standard.

¹ Interview with Fouad Turk

But Lebanon was not able to benefit from this power on the national level. If this trend shifts from family toward national interest, then a mutual interdependent relationship would arise. By that, Lebanon would incite its natives to invest in its growth. In return, the investors would reap financial profits. As a result, neither the government nor the natives would do a favor to the other but both of them would benefit. Therefore, Lebanon would rely on its natives for its reconstruction.

Touristic Assets

The archeological sites made Lebanon one of the major countries of the world where history of civilization took place. These sites, aged thousand of years, are rich in history: different civilizations, different religions, and different turning points of human history (in the history of writing, business trade and openness).

Lebanon played the link between the eastern and the western civilizations. It was the bridge which linked these two different cultures. In addition, Lebanon's geography and climate attracted a great number of tourists which enjoyed its richness.

Pamphlets about the touristic richness of Lebanon could be sent to immigrants of Lebanese origin. In short, in order to reanimate this sector, tours should be established mainly for them. The purpose of these tours would be to revive in these persons their sense of belonging to Lebanon, to be proud of their origin. In return, they would expose this beauty to foreigners. Hence, they would draw a correct image of Lebanon and not that of violence, destruction and terrorism.

Intellectual Assets

This is one of the sectors that does not require any detailed explanation. For it holds within itself an international assets through our giant intellectuals, writers and inventors. One of the books read world wide is “The Prophet” of Gibran Khalil Gibran which was translated into 72 languages.

Lebanon has an important wealth in the sectors of literature, science, invention, technology and arts such as:

- * Hassan Kamel El Sabbah, Lebanese American inventor
- * Doctor George Hatem, second generation Lebanese American, became the personal physician to Mao Tse Tung
- * Professor Elias James Corey, Nobel Prize winner for chemistry, 1990
- * Danny Thomas, Lebanese American comedian and Casey Kasem, Lebanese American entertainer and DJ
- * Naoum Labaki established in Brazil “Al Rakeeb” newspaper
- * Amin Maalouf, Lebanese writer

These are nothing but a drop of water in the endless sea of the Lebanese intellectuals.

Lebanon can benefit from this category by encouraging them in their work, appreciating their efforts, and recognizing their achievements. This participation form a picture of Lebanese heritage and patrimony. A rich exchange between Lebanese and that of the host country cultures can develop and strengthen.

In conclusion, Lebanon is not benefiting from the Lebanese diaspora. A great deal can be done to enrich both parties, the government and people of Lebanese origin. The Lebanese government has neglected insofar its great inheritance of emigrants. Some modest actions have taken place. However, the main job is not performed yet. The Lebanese government has some duties regarding its

citizens spread in the world. The main interaction between the Lebanese government and its natives was restricted to some entertainment gatherings or political ones. The government can take some administrative steps to render the reintegration process smoother. These steps include: gathering and archiving related documents from churches and mosques, reviving and archiving the related registry, etc. ...

THE LEBANESE EMIGRANTS RIGHT TO LEBANESE NATIONALITY

The Lebanese legislation specified six cases under which the Lebanese emigrants can be reintegrated in the Lebanese nationality. Beside these six cases, no other specifications were made.

1- Lebanese living abroad who was not counted in the census of 1932

The Lebanese who emigrated after August 30, 1924 and who was registered in the census of 1932 in the Lebanese registers, has the right to claim his registration. With the claim should be attached the legal document of his registration in the census of 1921 and his passport which proves his departure date out of the Lebanese territories, article 17 of the law of June 10, 1944 gives the power to the ambassador or consul to look into the case of such a person. Accordingly, the ambassador or the consul is entitled to send a decision to register this person in the Lebanese registration. The registration responsible will send this application to the Ministry of Emigrants, to the Personal Affairs Administration and to the Register Officer in order to be registered legally.

2- Lebanese not counted in the census of 1932, emigrated after August 30, 1924 and registered in the emigrating list of 1932

Article 1 of decision 2825 dated August 10, 1924 states that “the Ottoman citizens who lived on the territories of Great Lebanon until August 30, 1924 are considered to be Lebanese and therefore lose Ottoman citizenship”. Consequently, the Lebanese who were counted in the census of 1921, or any other census, emigrated after August 30, 1924 and registered in the emigrating list of 1932, can regain their Lebanese nationality if they come back to Lebanon. They should present all necessary documents (register of 1921 and register of Emigrants of 1932) and ask to transfer their register from the Emigrating list of 1932 to the register of the inhabitants. This could be done if prior to their integration in new nationality they got the approval of the Lebanese President.

3- Children of Lebanese emigrants registered in the census of 1932

Article 19 of the law of personal affairs dated December 7, 1951 states that Lebanese living abroad have to register the child in the embassy or consulate in the host country, then send the document via the Ministry of Emigrants to the Personal Affairs Administration.

4- Children born abroad from Lebanese father, who are not registered in the embassy or consulate of the host country

The person gets the birth certificate from the host country where he was born. He certifies it from the host country's embassy in Lebanon then from the Lebanese Ministry of Emigrants. This certified document would be sent to the Personal Affairs Administration, to the Register Officer who will issue according to requirements, a Lebanese legal document similar to the original one.

5- Lebanese married abroad with a foreign woman who gets the Lebanese nationality

A Lebanese, married to a foreign woman outside Lebanon, presents the marriage certificate delivered by the host country to the embassy or consulate which registers it in its books. Then this document is sent through Ministry of Emigration to Personal Affairs Administration, to Register Officer who will register it in the local books according to Article 26 of Personal Affairs law of 1951. After one year of marriage registration in Lebanon, the foreign woman could get the Lebanese nationality if she comes to Lebanon.

6- Lebanese emigrating after August 30, 1924 and not registering in the census

Article 1 of decree n°3826 who complemented decree n°8837 of January 15, 1932 states: Lebanese emigrated after August 30, 1924 and who did not register in the census, can register in the census if he proves the date of his departure. He should apply to the Directorate responsible of the census via a designated agent on his behalf. Decree n°3826 of February 1, 1939 restricts it to only this category of emigrants. Nowadays, the emigrant can present his case to the Court of First Instance, presenting proofs of his residency on the Lebanese territory until August 30, 1924 and his non-registration in the census of 1932. As such, he can reintegrate in his Lebanese nationality.

There is another group of Lebanese emigrants who left before August 30, 1924 and their children left after them and could not apply for Lebanese nationality during the two years stated in Article 34 of Lausanne Treaty. They could not either apply during the extended periods, even in its latest extension from September 29,

1956 till September 29, 1958. This status was the result of the absence of Lebanese governmental representatives in their host countries; therefore, preventing them from applying. Since Lebanon adopted the *Jus Sanguinis* theory, they should modify Article 34 of Lausanne Treaty in order to preserve their children. For Lebanon needs its children in the different sectors: political, economical, and social. This issue was not resolved. Yet, this situation drew many Arab countries' attention such as Syria. Syria modified its nationality law accordingly - decree n°67 of October 31, 1961 and decision n°1553 of October 23, 1963 - that granted the Syrian emigrants rights and facilitates for their reintegration in the Syrian nationality.

CHAPTER V

SAFEGUARDING THE LEBANESE IDENTIFY

CONCLUSION

As a conclusion, nationality is a sacred bond between the individual and the state. It links the person with the country of attachment, this country facilitates the living in an atmosphere of freedom and security, in the shadow of its rules and regulations.

While analyzing the naturalization decree n°5247 issued June 20, 1994 we can notice that there is violation of the law and the Constitution. This decree was not presented to the Cabinet in order to ratify it did not wait the outcomes of a committee responsible to lay down a new nationality law project. In addition, no proper investigation was conducted in the study of the files of each and every applicant to check whether this person has the right to a Lebanese nationality, whether he fulfills the requirements, whether his loyalty to Lebanon has been proven, or he proved to be homogeneous with the Lebanese society. Even if some of these investigations were conducted, they were not enough. This fact adds to the mysterious circumstantial framework involved with the amendment of the Lebanese nationality law.

On the other hand, this decree treated with justice thousands of Lebanese inhabitants who have lost their Lebanese nationality due to some reasons which go back to the time before World War II, in addition, thousands others with

unspecified and no registration at all. This category who worked and fought, in one way or the other, for the interest of Lebanon, deserves Lebanese nationality. On the other hand, a huge number of persons who do not deserve it or do not have the legal right for it, were naturalized and were distributed in the different areas where they did not live. This fact caused the negative reaction against such a decree and some people asked to freeze its effect, at least until the legal proofs on who should and should not get one were reached. Therefore, a new proper investigation should be conducted in order to eliminate any doubts regarding some applications and to unfold the reality about false information and bribery.

This wave of opposition had pushed the Minister of Internal Affairs, Mr. Michel Murr, to issue a decision n°257 dated June 3, 1996 designating a high commission to dissolve the problem of the decree n°5247 regarding naturalization. This high commission is responsible to conduct and prove if the necessary information regarding the naturalized exists, especially their place of residency. This should lead to prove whether all naturalized have the legal right to the Lebanese nationality. In addition, this high commission has to study the new application for naturalization "in order to re-establish the equilibrium in accordance with the national unity"¹.

One of the reasons for objection against this decree is that, commonly known, nationality is usually granted individually and not collectively. As noted in the previous chapters, the Syrian legislation grants nationality on an individual basis. Even if this decree was fair to some categories, it did not respect the general principles of justice. Therefore, it is required to lay down a new nationality law project, updated in respect with the new trends and development of life from one side, and national interests from the other.

Furthermore, the distribution of these naturalized persons in villages where they did not live, is unhealthy and correct from a national point of view. This situation redefined on purpose a new demographically distribution of the Lebanese population. Therefore, this new factual situation had a great impact on the parliament election of 1996. Resulting is a dismantle of the cazas, and the mingle of the different parties especially by disturbing its political and social entity. This naturalization would not have created a homogeneity with the local community.

As a conclusion, the best way to look into naturalization is not from a confessional point of view rather from a national point of view. This means that the purpose of naturalization is not to increase the number of Christians or Muslims for some sectarian purposes rather, from the loyalty of these naturalized to Lebanon, its existence, entity, survival, and continuity. If not, what would be the purpose of naturalization whether this naturalized person belongs to this sect or the other.

Whatever the standpoint from this decree, it is the first in its kind to have this huge size. Consequently, we can ask: is it for the benefit of Lebanon or might it be a disaster? Naturalization usually is either a support to the existing entity or a destruction for this existence.

¹ Decision n°257 of the Minister of Internal Affairs, designated the commission formed of the Director General of the General Security Force, the Director General of the Personal Affairs Administration, and the Inspector of the Internal Security Force. An Nahar, June 4, 1996.

RECOMMENDATIONS

It would be a support if the naturalized becomes a unified and homogeneous part of the local community, helping the state to keep its stability, and keeping a healthy and enriching relationship with the state. This naturalization therefore, is a support if it comes to solve some humanitarian, social, and political problems resulting throughout the 60 years of Lebanese history.

It would be a disaster if this naturalization was given to undesired members who will become a threat to the national security, whether from an ethnical, social, security, or political point of view. Therefore, naturalization gives the guarantee for a stable life to the stateless person who lives on the Lebanese territory, while gives the opportunity to others for destruction and sabotage.

On a national basis, the President and the Prime Minister did not take the pluralistic confessional distribution of the Lebanese society into consideration. This confessional equilibrium had shaped the Lebanese political history since the formation of Lebanon after its independence. Therefore, the Lebanese confessional structure is going to change, from a national point of view. Besides this alteration in the equilibrium, this decree did not take the Lebanese resource reserves into account. Lebanon has a dense population mainly in the capital and the absorption of this new naturalized persons would increase inflation and strengthen competition among labors. This tightness will cause the natives of the working class to leave the country seeking a better opportunity and a better living. Resulting from this situation, the Lebanese citizens will depart from their motherland opening the door for foreigners to take their place. This situation was

stated in the Syrian law that if the applicant for naturalization will compete with the local workers, he will not be granted the Syrian nationality¹.

It is important for the individuals to have this bond of belonging because it will provide him with the incentive to work and perform better, if not for his country, at least for his own benefit. This bond will procure him a sense of security and a long lasting future with his beloved ones. On the other hand, it is also very crucial for a country to preserve its natural wealth of individuals. Those individuals have a stronger and a natural feeling of patriotism (like young people fighting for the country...). In the same way, they will be more attached to their motherland since their linkage- which is much more than paper - is blood bond that commit them to preserve their country and work for its advantages.

For this reason, the supplement to decree n°5247 should be issued for the Lebanese emigrants in the world. This supplement should not include any other foreigners just for the sake of increasing the numbers of adherents to any religion. This supplement should be fair to the increasing number of Lebanese emigrants. Because nationalization creates a sacred bond between the nationalized and the state, it becomes necessary to re-establish this sacred bond in our emigrating natives. By this act, the risk of altering the Lebanese identity would be diminished, the Lebanese well known existence of balance between the two major religions will be reached again.

Therefore, I strongly support the theory of *Jus Sanginis* to be adopted in the case of Lebanon for many reasons. First, from a geographic point of view, Lebanon has a small surface area which could not withstand an increasing population density. Second, from a political reason, the Lebanese society is built on its pluralistic confessional balance. By altering his balance, we would alter the whole constitution of the Lebanese society. Finally, nationality should be given on

¹ Decree n°21 issued by the Syrian Cabinet under decision n°95 of January 31, 1953.

a merit basis. By that, I mean that the natives of Lebanese origin in the world merit the Lebanese nationality more than any other foreigner

Resulting, the supplement to decree n°5247, even though not finalized yet, should be analyzed more in depth and then issued. The impact of this supplement on the Lebanese society would be crucial. For this reason, further study and in depth research of the supplement would be of great national interest.

We should work together, Lebanese and naturalized Lebanese, hand in hand, in order to preserve Lebanese identity, respect the civil as well as the political rights. Besides, we should stay in touch with the Lebanese spread in the world. We should work on establishing a strong link between both groups. Lebanon can benefit from its sons wherever they are. For Lebanon's existence is after all based on the Lebanese and for the Lebanese. For Lebanon can grow, first and last, on the efforts of the Lebanese themselves whether in Lebanon or outside it.

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2. Laws and Decrees issued by of the High Commissioner
3. Legislation issued since independence

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2. Article 30 to 36 of Lausanne Treaty
3. Annex to the Franco-Turc Treaty
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NATIONALITY

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It will be listed here below, all the texts that are and could be used as a reference in the Lebanese Court vis-à-vis nationality case problems under different situations.

A- UNILATERAL TEXTS

a- Text of the Ottoman Law

1°- Law of January 19, 1869 regarding the Ottoman Nationality

2°- Law of March 17, 1884

b- Laws and Decrees issued by the High Commissioner

1°- Law n°2825 of August 30, 1924

2°- Decision n°15s of January 19, 1925

3°- Law n°160/LR of July 16, 1934

4°- Law n°161/LR of July 16, 1934

5°- Law n°60/LR of March 13, 1936

6°- Law n°129/LR of October 8, 1938

7°- Law n°122/LR of June 19, 1939

8°- Law n°182/LR of August 26, 1939

9°- Law n°197/LR of July 27, 1940

c- Legislation Issued Since the Independence

1°- Decree n°8837 of January 15, 1932

2°- Law of June 7, 1937

3°- Law of May 27, 1939

4°- Decree n°3826 of February 10, 1939

5°- Decree n°48/LR of March 30, 1940

6°- Decree n°154/LR of March 23, 1942

7°- Decree n°353 of March 16, 1943

8°- Law of December 31, 1946

9°- Decree n°398 of November 29, 1949

10°- Law of December 3, 1951

11°- Law of January 11, 1960

12°- Law n°10828 of October 9, 1962

13°- Law n°68/67 of December 4, 1967

14°- Law of April 29, 1993

APPENDICES

APPENDIX A**THE PRESIDENTIAL DECREE N°5247**

مرسوم رقم ٥٢٤٧

قبوز في الجنسية اللبنانية.

إِنْرَيسَ الْجُمْهُورِيَّةِ

بِنَاءِ عَلَى الدُّسُورِ

بناء على القرار رقم ١٥ تاريخ ١٩/١/١٩٢٥ المتعلق بالجنسية اللبنانية،
بناء على طلبات التجنس بالجنسية اللبنانية المقدمة من كل من الاشخاص الواردة اسماؤهم ادناه،
بناء على اقتراح وزير الداخلية،
يرسم ما يأتي :

المادة الاولى. - قبل تجنس كل من الاشخاص الواردة اسماؤهم ادناه بالجنسية اللبنانية :

- ماجد احمد الحاج مكتوم، القيد و زوجته وزيرة ابراهيم الحاج من جنسية قيد الدرس.
- ياسر غازي خضر من جنسية قيد الدرس و زوجته عيشة محمد كنجر مكتومة القيد.
- رفعت خلف طالب و زوجته أمته علي النوريس من جنسية قيد الدرس.
- عمر نوري الملا من جنسية قيد الدرس و زوجته زينب فخري علي خان مكتومة القيد.
- حسن عوض الجذوع و زوجته فاطمة احمد مطر من جنسية قيد الدرس.
- محمد عوض الجذوع و زوجته شوقه محمد عبد الزراق من جنسية قيد الدرس.
- محمد خضر مرعي من جنسية قيد الدرس.
- نوبار سيروب مارديروسيان من جنسية قيد الدرس.
- جمال خليل موسى من جنسية قيد الدرس.
- مصطفى خضر الحسين و زوجته امال راح علي من جنسية قيد الدرس.
- خالد عبيد الحمود من جنسية قيد الدرس و زوجته رقية احمد جمعه مكتومة القيد.
- رفيق حسن النعيمي من جنسية قيد الدرس.
- نهي متعب شقيف و شقيقتها هناء متعب شقيف و شقيقتها احمد متعب شقيف من جنسية قيد الدرس.
- حسين يوسف الحلبي و زوجته رسمية حسين ابو الحسن و ولديه راقية و يوسف من جنسية قيد الدرس.
- خالد محمد اتحدان من جنسية قيد الدرس.

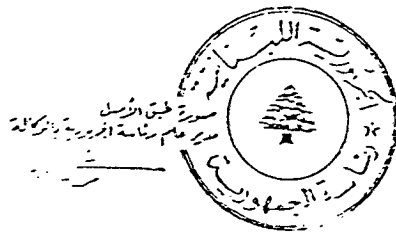
- الحاج فايز العلي وولديه وليد ورقية مكتومي القيد
- حمزة سلمان عيسى مكتومة القيد.
- خلدون حسين الميالي من الجنسية السورية.
- سعاد ابراهيم شما وفنتها ثروت احمد صلاح عبود من الجنسية السورية.
- مائدة محمد اسعد زينو صفال من الجنسية السورية.
- حكمت غريب عبد الله من الجنسية المصرية.
- ناهد معدوح مراد يوسف من الجنسية المصرية.
- عائده احمد طاطور من الجنسية السورية.
- ساميه محمد القده وولديها مروان محمود محمد الكزيري ومحمد محمود محمد الكزيري من الجنسية السورية.
- ايمن عبد اللطيف دروك من الجنسية الاردنية.
- عمر صالح المنفي و ولده بشر من الجنسية الاردنية.
- ساميه سامي بيطار و شقيقتها ناتالي سامي بيطار من الجنسية السورية.
- نيكيلا لاسلو ميزاروس من الجنسية الفرنسية.
- جابن شارل الحاج من الجنسية الاميركية.

المادة الثانية. - ينشر هذا المرسوم ويبلغ حيث تدعو الحاجة ويعمل به بعد تأدية كامل الرسوم المتوجبة قانونا.

بعيدا في ٢٠ حزيران ١٩٩٤
الامضاء : الياس الهراوي

صدر عن رئيس الجمهورية
رئيس مجلس الوزراء
الامضاء : رنيق الحريري

وزير الداخلية
الامضاء : بشاره مرهج



APPENDIX B

APPLICATION FORM AND LEGAL DOCUMENTS

المستندات المتوجبة للجنسية في لبنان :

- وثيقة ولادة
- شهادة عماد
- سند ايجار أو ملكية
- وصلات : كهرباء — مياه — بلدية — داتش
- افادة من مختار الدائرة
- ورقة من المطارانية
- افادات مدرسية
- شهادة أو افادة جامعية
- افادة من رب العمل — رقم الهاتف — العنوان
- شهادة زواج
- شهادة وفاة اذا كان أحد الاشخاص متوفيا
- صورة عدد ٢ لكل شخص
- اذا كان مقدم طلب قبل الان : رقم الطلب
- جنسية قيد الدرس
- اقامة من الامن العام

طلب الحصول على الجنسية اللبنانية

١٢

اسم العائلة _____ رقم الملف:

الاسم والشهرة _____ مكان وتاريخ الولادة _____

اسم الوالد _____ جنسيته _____ طائفته _____

الجنسية _____ قيد الدرس لا قيد له مكتوم

الطائفة _____ متأهل أعزب

تاريخ ومكان الزواج _____ شهادة الزواج

تاريخ دخوله الى لبنان _____ مكان وتاريخ الولادة في لبنان _____

اقامته الحالية _____ مصدرها وتاريخها _____

المهنة _____ رب عمل ام عامل

رقم بطاقة العمل _____ مصدرها وتاريخها _____

وثائق تبرئة من الاقامة في لبنان: _____

وهل لك كبرياء ولاء هاتف ملكية ايجار نشاط مدنية

حل لك اقرباء لبنانيين؟ _____ من هم _____

اسم الزوجة _____ تاريخ ومكان ولادتها _____

اسم الوالد _____ اسم الوالدة _____

الجنسية _____ رقم السجل _____ مصدرها _____

الطائفة _____ المهنة _____

وثائق ثبوتية: اداة عقارية عقد عمل لدى كاتب العدل شهادة قيد

الأولاد:

الاسم _____ الجنس _____ تاريخ ومكان الولادة _____ مسجل ام لا _____ متأهل ام اعزب _____

الاسم	الجنس	تاريخ ومكان الولادة	مسجل ام لا	متأهل ام اعزب

تاريخ التسجيل _____

VITA

Sabine Y. LABAKY

Candidate for the degree of
Master of Business Administration
in
International Affairs and Diplomacy

Dissertation: The Current Status Of The Lebanese Nationality And Its Future In
Light Of The Presidential Decree # 5247.

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3. French and Lebanese Bacc. II, Notre Dame de Jamhour, 1988.

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