



NATIONALITY NOT NATURALIZATION

The Rights of Lebanese Women to Full Citizenship
and to Confer their Nationality to their Children

Policy Brief



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OVERVIEW

This policy brief shares key findings from a recent study prepared by the National Commission for Lebanese Women (NCLW) examining women's citizenship rights, the Lebanese Nationality Law 15 of 1925, and the judicial rulings issued which interpreted the application of the law in Lebanon.

The Lebanese Constitution guarantees equal rights for citizens, women and men. However, the Lebanese Nationality Law

discriminates against female citizens, denying them their right to pass their Lebanese nationality to their children and foreign-born spouses. To date, the most significant challenge to ending this discrimination has been a political one, with authorities and political actors resisting change based on confessional concerns. This brief investigates the effects of this discrimination, looking at economic, political, health, educational, social and familial issues to understand its impact on women and their affected families.

METHODOLOGY

This policy brief is based on a study¹ that was developed through a desk review of current legislation pertaining to issues of nationality, and other related research and studies. In addition, interviews were conducted with Ministry of Justice officials and 11 Lebanese women married to foreigners and/or their children.

To complement this, NCLW requested information from the Ministry

of Interior and Municipalities; Directorate of Personal Status and Directorate of Refugee Affairs; Directorate of Internal Security Forces; Directorate of General Security; Ministry of Foreign Affairs and Expatriates; Ministry of Health; as well as the Ministry of Education and Higher Education. The Directorate of the Public Security Forces and Directorate of General Security replied, providing data.

THE NATIONAL AND INTERNATIONAL HUMAN RIGHTS FRAMEWORK GOVERNING NATIONALITY RIGHTS IN LEBANON

The right to a nationality is a fundamental human right that implies the right of each individual to acquire, change, renunciate and retain a nationality. The Lebanese Court of Cassation has held that nationality is the establishment of a political and legal bond between the individual and the State.² Confirming the nationality of an individual implies the recognition of their ties to a specific society or of their belonging to a State.³ In other words, it is a legal bond between an individual and a particular State.⁴

In its preamble to the Constitution, Lebanon noted its commitment to the Universal Declaration of Human Rights, which stipulates that all persons are free and equal regardless of gender, colour, belief, religion or other characteristics. The Declaration provided for 30 human rights, including the right to non-discrimination, the right to nationality, the right to freedom of expression, the right to education, the right to seek asylum, and additional civil, political, economic, social and cultural rights.⁵ All these rights have equal status and are indivisible—no right is more important than another—and the denial of one right may frequently impede the enjoyment of other rights. Lebanon has also committed itself in the preamble of its Constitution to the principles and charters of the United Nations that the State embodies in all areas.⁶

The Lebanese Constitution stipulates that Lebanese nationality, the manner in which it is acquired, retained, and lost, shall be determined in accordance with the law and that all Lebanese shall be equal before the law.⁷ They shall equally enjoy civil and political rights and shall equally be bound by public obligations and duties without any distinction.⁸ However, the Constitution does not contain any text that defines discrimination. At the same time, although it provides for equal citizenship rights before the law, it does not stipulate

equality between men and women before the law, primarily because religious courts deal with all matters related to personal status, and each court refers to its own laws, resulting in contradictions with constitutional provisions and the perpetuation of discrimination and inequality in national legislations.⁹

Lebanon acceded to the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR) in 1972 and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC) in 1991. The CRC stipulates that a child shall be registered immediately after birth, that they shall have the right from birth to acquire a nationality, and States Parties shall ensure the implementation of these rights in accordance with their legal, national and international obligations, in particular where the child would otherwise be stateless on failure to do that. Lebanon ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) under Law 592 in 1996. Article 9 of CEDAW states that, 'states parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband'. The CEDAW Committee, the body tasked with monitoring the implementation of CEDAW, has regularly called on Lebanon to amend its nationality law to enable women to pass on their nationality to their children and to foreign husbands on an equal footing with male nationals.

At the regional level, Lebanon has acceded to the Arab Charter on Human Rights (ACHR)¹⁰. In 2017, the Secretary-General of the

Arab League called on its Member States to protect the equal nationality rights of all citizens, regardless of gender, and to strengthen the process of lifting reservations on nationality in the CEDAW Convention. The Arab League issued the Arab Declaration on Belonging and Legal Identity as a ministerial declaration in 2018, which calls for gender equality in nationality rights and for children in all Member States to enjoy their right to a legal identity.¹¹ In 2016 Lebanon participated in the ESCWA Committee on Women and supported the adoption of the Muscat Declaration: Towards the Achievement of Gender Justice in the Arab Region. This declaration confirmed the commitment of the following measures to achieve gender justice including to “harmonize national legislation with international and regional commitments ratified by member States, so as to ensure the repeal of all discriminatory laws.”



Lebanon’s National Action Plan for the implementation of UN Security Council Resolution 1325 on Women, Peace and Security

The Lebanese Government adopted its first National Action Plan (NAP) to implement UN Security Council Resolution 1325 on Women, Peace and Security in September 2019. The NAP was developed under the leadership of NCLW through a wide consultative process with national institutions, civil society organizations and UN agencies. This plan provides a comprehensive national framework for Lebanon’s long-term stability and security and is essential to achieving the 2030 Sustainable Development Goals. The NAP includes five strategic priorities:

1. Women’s participation in decision-making at all levels (security and defence, politics and public affairs, and economic life);
2. Prevention of conflict;
3. Prevention of and protection of women/girls from gender-based violence;
4. Relief and recovery;
5. Legislative framework.

In the section on legislative framework, the NAP explicitly recognizes (1) amending the Nationality Law to give Lebanese women equal rights to pass on their nationality to their children and (2) amending the provisions of the law related to non-registered persons including waiving fees for DNA testing and ensuring swift judicial proceedings.

ANALYSIS OF LEBANON’S POLICIES ON NATIONALITY

Despite the principle of equality in rights and duties among citizens enshrined in the Lebanese Constitution, the Lebanese **Nationality Law No. 15** of 1925 is based on patriarchal blood bond, which means that the acquisition of Lebanese nationality is linked to patriarchal lineage, resulting in clear discrimination against Lebanese women. For example, a man is able to grant his Lebanese nationality to his foreign spouse and children without any restrictions, however, a Lebanese woman cannot pass on her Lebanese nationality to her foreign spouse or children except when her children are born out of wedlock.¹²

Article 5 of the Nationality Law stipulates that a foreign woman (one who may have foreign nationality, citizenship under study [Qaid al-Dars] or an unidentified nationality) married to a Lebanese man shall, upon her request, become Lebanese one year from the date on which the marriage was registered.¹³ In practice, however, the Directorate of Personal Status and General Security sometimes place obstacles on couples depending on the wife’s nationality. In one instance, General Security told a Jordanian woman married to a Lebanese that three years must pass from the marriage for her to obtain Lebanese citizenship, in addition to her bearing a child or two

from him. If the couple does not have children, they must submit medical documents justifying medical reasons why they do not.¹⁴ Proceedings may also be constricted for certain nationalities and the decision to grant citizenship may be delayed indefinitely. This is due to a legal loophole, namely, the failure to identify a specific period to process citizenship requests by General Security.

Article 15 of the Personal Status Records Registration Law promulgated in 1951 stipulates that if a child is born out of wedlock, the birth certificate must be prepared by the person who sponsors the child, the doctor or midwife. In this case, no mention is made of his or her father's name unless the father personally recognizes paternity (or this is done through a person he has delegated for this purpose). If the father does not acknowledge the child, the child born out of wedlock is given a name by the person preparing the birth certificate. In addition, the preparer of the birth certificate is not allowed to mention the name of the mother unless she acknowledges that she is the mother of the child or through a court ruling.¹⁵

Issued in 1994 **Naturalization Decree 5247/94** aimed to legalize the status of a large number of persons who had formed a kind of de facto citizenship with the State.¹⁶ It was, however, issued without data regarding the total number of persons who had obtained Lebanese nationality to that point. An appeal filed against the decree led the State Council to request the Ministry of Interior to re-examine the files of those naturalized by the Decree and annul the citizenship of all found unworthy, fraudulent, or whose naturalization was flagrantly contrary to the law.¹⁷ The nationality of those naturalized under Decree 5247 remains unsettled as the review of the files has been suspended more than once and has not yet been concluded. While this naturalization decree did grant citizenship to tens of thousands of non-citizen residents, it did not end legal discrimination faced by Lebanese women, their children, and their spouses.¹⁸

Over the past few decades, civil society organizations and national stakeholders in Lebanon have made numerous efforts to amend the Lebanese Nationality Law No. 15 of 19 January 1925 to allow Lebanese women to pass on their nationality to their husbands and children equal to men.

Public discourse on the rights of women to transfer their nationality witnessed a critical turning point in 2012-2013. During this period, the Council of Ministers established a ministerial committee to examine the possibility of amending the Nationality Law.¹⁹ It was evident in the committee's report that its primary concern in addressing these issues was the impact that changes to the Nationality Law would

have on Lebanon's demographic balance and make up, particularly with regards to Lebanon's Palestinian population. According to the report,²⁰ equal nationality rights between women and men could lead to destabilizing the governing power-sharing arrangements in Lebanon with the possible consequence of a breach to civil peace. In light of this, the Committee concluded that the legislation would not be amended and instead suggested that some privileges be granted to those born to Lebanese mothers. The Council of Ministers endorsed the Committee's recommendations.²¹ In addition, Lebanese legislators continued to enact new discriminatory laws against women. For example, in November 2015, Parliament approved a bill establishing conditions for the recovery of nationality to enable expatriates and descendants of Lebanese origin to regain citizenship. The law passed is based on gender discrimination as only male descendants of Lebanese ancestry can benefit from it. The Law includes three references to "males" (one of his male ancestry or male relatives) as distinct from females and two references to "father" (from his father) as distinct from the mother.²²

In recent years, several political parties, deputies and ministers have submitted draft laws to amend the Lebanese Nationality law, including: a bill submitted by former Minister of Interior and Municipalities Ziad Baroud in 2009; a bill submitted by former parliamentarians Bahij Tabbara and Pierre Dakdash 2009; a bill submitted by the former member of parliament Imad Al-Hout in 2016; a bill introduced by former Minister for Foreign Affairs, Gebran Basil in 2018 (which would amend the Nationality Law so that Lebanese women could pass on their nationality to their families upon marriage to a foreigner, excluding marriages from neighbouring countries); a bill submitted by MP Hadi Abul Hosn of the Democratic Gathering Bloc in 2018 (that would lift all forms of discrimination between men and women in the Lebanese Nationality Law); and a bill presented by Member of Parliament Rola Tabesh in 2019 (which would allow Lebanese mothers to confer their nationality to their children on an equal footing with Lebanese men).

A draft law presented by NCLW in May 2019 proposes that Lebanese women married to foreigners have the right to pass on their nationality to their minor children as soon as the law enters into force. As for children who have reached the age of 18 upon or after this law comes into force, they have the right to obtain a green card assuming all civil, economic and social rights the Lebanese enjoy, with the exception of political rights, the right to hold various public jobs, and the right to own real estate except through the Law of Acquisition of Real Estate Rights by Foreigners in Lebanon.²³

EXISTING DATA ON INDIVIDUALS AND FAMILIES IMPACTED

While the full extent of those affected by Lebanon's discriminatory laws remains unknown, data shared with the author of this study by the Directorate of the Internal Security Forces puts the number of courtesy residences granted to spouses and children of Lebanese women married to non-Lebanese at 502,204 and the number of laissez-passers issued to non-registered Lebanese women (Maktoumi al-Qaid) at 1,119 (no time period was given for these numbers, nor breakdowns in terms of region, nationality, etc).²⁴

Furthermore, to date no one has been able to quantify the number of naturalized persons in Lebanon. Some say that it has reached 400,000 and others claim that it has reached 800,000. However, these figures appear to be exaggerated and it is more likely that the actual number is at most only 200,000. That being said, the official statistics from the Directorate General of Personal Status show that the number of persons who have obtained citizenship as a result of the 1994 decree is close to 153,452.²⁵

The absence of detailed data, including a detailed breakdown of these figures based on gender, legal status, nationality, and denomination/religion, demonstrates the need for the adoption of a system to ensure the acquisition of accurate information.

Having such data would help to propose and approve appropriate laws rather than issuing positions, decisions, and policies that may not correspond to reality, especially concerning Lebanese women married to foreigners.²⁶

THE IMPACT OF DISCRIMINATORY NATIONALITY LEGISLATION ON WOMEN AND THEIR FAMILIES

Despite the lack of accuracy around total numbers, women and their families are greatly affected as they are at a higher risk of protection threats and face limited access to specific services. Below offers a brief summary of the impact of this discriminatory legislation.

Protection risks

- The failure of a Lebanese woman married to a foreigner to pass on her nationality to her children puts her children at risk of statelessness, exploitation, trafficking, and protection concerns due to irregularities in their legal status. Related to this topic, a Lebanese woman married to a foreigner interviewed for this study stated: “My husband left me two months after my marriage while I was pregnant. I gave birth to my son, who is now five years old. I don’t know anything about my husband, and I don’t have a copy of his passport. I registered my son as an illegitimate child to have an identity card and nationality and to be able to enter school. I’m sick of my life, and I want to secure my son.” Her sentiments capture the dire circumstances existing legislation can leave women in. In the case where a Lebanese wife were to leave her foreign born husband (due to domestic violence or any other reason) or in the event that a foreign husband abandons his Lebanese wife and child/children whom he did not duly register (due to the illegality of his residence in Lebanon, negligence or ignorance), the Lebanese wife is put in a position to register her child as a natural child (out of wedlock/“illegitimate”) to enable her children to obtain Lebanese nationality. This exposes her to prosecution as falsifying legal status is a criminal offence punishable by the Lebanese Penal Code.
- As spouses married to Lebanese women and their children are treated as foreigners, they are often targeted by the Ministry of Labour’s decisions (including the 2017 Ministry of Labour’s effort to crack down on shops and institutions run and operated by non-Lebanese, widely understood to target Syrians).

Access to services and assets

- If the law of the foreign husband’s home country prescribes limitations to the right of inheritance, foreign children do not inherit from their Lebanese mother, as authorized by foreign law for Lebanese nationals.²⁷ The same applies to Muslim denominations that permit inheritance between Lebanese and a foreigner on the condition of reciprocity.
- Some Lebanese legislation places restrictions on the freedom of property ownership for foreigners in Lebanon, including for Palestinians, affecting children of Lebanese women married to foreigners.²⁸
- Foreign nationals (including the foreign husband and children of Lebanese women) are largely excluded from healthcare benefits subsidized by Lebanon’s National Social Security Fund and the Ministry of Health. As for Lebanese women married to a Palestinian, Palestinian refugees are deprived of public hospital services and any other health services provided by the Ministry of Health, except under the agreements signed between the U.N. Relief and Works Agency for Near East Refugees (UNRWA) and the Ministry of Health.²⁹
- The noncitizen children of Lebanese women can attend Lebanese public schools for free. However, because these children are deemed foreign nationals, the Ministry of Education and Higher Education (MEHE) issues annual enrolment decrees that prioritize Lebanese students’ enrolment, making it harder for non-Lebanese children to register. In some cases, children without the necessary identification documents face complications that prevent them from enrolling in school or taking national exams. Furthermore, noncitizen children and spouses of Lebanese women applying to a public university may not be eligible for financial aid.³⁰

CONCLUSION AND RECOMMENDATIONS

Equality between women and men is a matter of human rights and a condition for equality, development and peace.³¹ There is an urgent need for redress of this long-standing inequality and discrimination and to address the link between politics, demographics and nationality policy as a means of denying Lebanese women their equal right to nationality.

This brief includes recommendations to counter allegations that have been used to impede amendments to the Nationality Law and recognize the rights of Lebanese mothers to pass on their nationality to their husbands and children. It includes recommendations at the individual, community and institutional levels.

First: At the individual level:

- Provide legal advice either directly or through partner community-based organizations, which helps to document legal needs and legal loopholes. Through providing legal aid, organizations can begin to document the main issues that families face related to the nationality law (i.e. how the lack of nationality may contribute to lack of legal registration, how this may contribute to statelessness in very few cases).

Second: At the community/social level:

- Adopt a national programme to raise community awareness as to the international framework of rights around equal nationality;
- Hold round tables with judges and law enforcement agencies and build their capacities on various issues related to the rights of Lebanese women to confer on their Lebanese nationality to their children, including international conventions related to this right, directly and indirectly;
- Exchange experiences with regional and/or international judges and encourage Lebanese judges to establish new statutory norms to allow Lebanese women to confer their Lebanese nationality to their children, that rely on the principles of justice and fairness adhering to Lebanon's Constitution and other international legal obligations;
- Build the capacity of lawyers to plead and defend Lebanese women married to foreigners and claim their right to pass on their nationality to their children (Strategic Litigation);
- Support lawyers to file lawsuits before the judiciary all over Lebanese territory to demand the right of Lebanese women to pass on their nationality to their children, and to cooperate with the Bar Associations in Beirut and the North and some lawyers specialized in this field;
- Run campaigns to call for an end to Lebanon's discriminatory nationality system; Document and use women's stories in advocacy campaigns, as well as involve women and their children in these campaigns.

Third: At the institutional level:

- Amend the Lebanese Nationality Law to enable women to pass on their nationality to their children and to foreign husbands on an equal footing with male nationals;
- Lift reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and accede to its Optional Protocol;
- Create an application to document marriages concluded by Lebanese women marrying foreign nationals abroad, and invite those abroad, in particular, who have not registered their marriage contracts at Lebanese embassies to fill in the information as specified in this application;
- Propose a draft law on the digitization of all data in the Directorate of Personal Status and the Directorate of Refugee Affairs of the Ministry of Interior and the digitization of marriage contracts and birth and death certificates registered in Lebanese embassies abroad;
- Establish a database in Lebanon to document all information concerning Lebanese women married to foreigners, their children, and the non-registered women Maktoumi al-Qaid in addition to the violations against them and their families and the relevant court rulings.
- Organize panels, meetings and advocacy campaigns to urge and/or promote trade unions and federations to open membership to the children and spouses of Lebanese women who have been married for at least a year to have equal status with Lebanese citizens pending the amendment to the Nationality Law by the House of Representatives; Amend the Social Security Law and adopt laws similar to Law 128/2010 and enable foreign spouses and children of Lebanese women to obtain the Social Security Fund benefits;
- Organize advocacy campaigns and meetings to get the Lebanese Ministry of Health and the National Social Security Fund to allow children of Lebanese women married to foreigners to benefit from all health-care services that are equally available to other Lebanese citizens.

Grounded in the vision of equality enshrined in the Charter of the United Nations, UN Women works for the elimination of discrimination against women and girls; the empowerment of women; and the achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action and peace and security.

Placing women's rights at the center of all its efforts, UN Women leads and coordinate United Nations System efforts to ensure that commitments on gender equality and gender mainstreaming translate into action throughout the world. It provides strong and coherent leadership in support of Member States' priorities and efforts, building effective partnerships with civil society and other relevant actors. UN Women Lebanon works on issues of women's political participation, women's peace, and security, women's economic empowerment, and changing social norms around gender and masculinities.

ENDNOTES

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