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Thibaut Jaulin



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Abstract

This paper deals with the issue of nationality in Lebanon, focusing on the legal rights of individuals from Lebanese origin in Lebanon and contemporary debates on this issue. Since the middle of the nineteenth century, numerous Lebanese have migrated from their country. Following the principle of *jus sanguini*, individuals of Lebanese origin can obtain the Lebanese nationality. However, conditions can differ greatly from one case to another. What are the different scenarios and to what legal principles do they correspond? What are the political implications of the law on nationality throughout Lebanon's history? In 1994, the publication of a governmental decree, granting the nationality to tens of thousands of foreigners and stateless individuals, provoked repeated claims to amend the law on nationality. How do the controversies on the confessional and political equilibrium influence the debate on the amendment of the law? I'll show that all these questions relegate to two elements that are central in the construction of Lebanon as a Nation-State: the antagonist conceptions of the nation and the importance of the confessional demography in the consociational democracy.

Keywords

Lebanon, Migration, Nationality, Politics, Treaty of Lausanne, Naturalization, Christian, Election, Michel Murr, Maronite League

Introduction

What are the conditions for an American, a Brazilian or an Australian of Lebanese descent to obtain the nationality of his country of origin? Should the nationality be granted to all those who are originally from Lebanon or only to those residing there? These questions are major issues because of the large groups of refugees and immigrants hosted in Lebanon and because of the importance of the Lebanese communities abroad. The latter is composed of migrants who left Lebanon in successive waves starting in the middle of the nineteenth century, and of their descendants. Because of the various degrees of integration in the host countries, it is difficult to properly estimate this 'diaspora', or *intishâr* as it is called in Arabic. It is usually estimated to comprise between 4 million persons (Consultative Center for Studies and Documentation, 1996) and 13 million (Maronite League), which is quite considerable compared to 3 700 000 Lebanese residents (CARIM).

Among the communities abroad, it is difficult to know how many persons carry the Lebanese nationality. Approximately between 600 000 and 800 000 persons have migrated since 1975 (CARIM). This figure appears to be quite reliable because they all still have the nationality. To this we should add the descendants of those who migrated before and after 1975 and whose births were registered in the consulates but here official data are not public, if they exist. Therefore, the approximation of 1 200 000 persons abroad carrying the Lebanese nationality (Information International, 2001) is not unlikely, though probably overestimated.

Statistical uncertainties are due to the facts that political and confessional issues linked with demographic questions prevent the production and diffusion of official statistical data (Vloerberghs, 2004). Moreover, counting migrants and evaluating diasporic communities raise various questions concerning the definition of migrations and diasporas (Fargues, 2006).

The conditions for an American, a Brazilian or an Australian with Lebanese origins to recover the Lebanese nationality follow different rules, depending on whether his Lebanese ancestor was a man or a woman and whether s/he possessed the Lebanese or the Ottoman nationality. What are the different scenarios and to which legal principles do they correspond? What are the political implications of the law on nationality and naturalization throughout the history of the country? What is at stake in discussions about the amendment of this law?

I'll show that all these questions relegate to two elements that are central in the construction of Lebanon as a Nation-State: on the one hand, the antagonist conceptions of the nation (Beydoun, 1984 ; Firro, 2003), and on the other hand, the importance of the confessional demography in the consociational democracy (Bookman, 1997).¹

After a short introduction to the historical and political Lebanese background, the first part of this paper explains and analyzes the Lebanese legislation on nationality. By focusing on the case of the emigrants it shows the conflicting definitions of the national identity and the fears related to the confessional balance. The second part deals with the contemporary political debate on naturalization and the political and electoral games played by politicians.

Historical and Political Framework

The dismantlement of the Ottoman Empire after WWI gave rise to the delimitation of new territories and the definition of new identities. According to the Treaty of Lausanne, 24 July 1923, Turkey, as the heritor of the Ottoman Empire, transferred its sovereignty on these territories and its people to the new states that emerged: Lebanon, Syria, Jordan, etc.

1 This matter is also related to the broader thematic of population engineering, see Michel Foucault on biopolitics (1997)

In a region where ancient commercial exchanges and internal migrations are at the basis of cultural and linguistic integration, the definition of the criteria of these new national identities and territories constituted a major problem.² In the Lebanese political arena, two major conflicting political currents arose: *Lebanism* and *Arabism* (Firro, 2003: 17-67). While the first highlights the religious and geographic specificity of Lebanon, the second emphasizes the cultural and linguistic unity of the Middle-East.

The norms of nationality implanted by the Treaty of Lausanne were based on both the principles of *jus solis* and *jus sanguinis*. First, every Ottoman citizen obtained the nationality of his country of residence. Second, those Ottomans who lived in a region of the Empire different from their region of origin had the right to choose the nationality of their country of origin within two years but, when exercising this choice, they had to transfer their residence permanently within the year. Third, Ottomans who lived abroad also obtained the right to choose the nationality of their country of origin within a delay of two years but without being obliged to change residency.

Under the French and British Mandates most of the Middle Eastern states adopted *jus sanguinis* as the main principle of nationality and thus restricted the possibility for foreigners to be naturalized. The Lebanese legislation on nationality does not differ from these general principles but some of its aspects illustrate the conflicting definitions of the national identity and reveal the fears related to the confessional equilibrium.

When France proclaimed the Greater Lebanon in 1920, it created a confessional political system in which the major executive positions and the parliamentary seats were distributed among the different religious confessions. On the basis of a census held in 1932 (Maktabi, 1999), the president of the Republic was a Maronite and Christians held the majority in the Parliament, concentrating the executive and legislative power. Until today the fear of major changes in the confessional equilibrium has prevented the organization of a new census.

Nowadays, despite the lack of statistics, it is generally admitted that Muslims outnumber the Christians and that the Shi'ite are the largest community. However, the distribution of power represents less these fluctuations in demographics than a political balance of power, result of a political consensus between elites, usually under the patronage of international powers. In 1943, Bechara el-Khoury and Riad el-Solh, leaders of the Maronites and the Sunnites, agreed orally on a compromise, called the National Pact. By this pact both leaders accepted the Lebanese independence (i.e. meaning the consecration of the partition with Syria and the end of the French mandate) and the confessional political system. In 1989, after 15 years of civil war, the Taëf Agreements introduced some major modifications in the balance of power. The Parliamentary seats were equally distributed between Christians and Muslims and the executive power shared between the three presidencies: the President of the Republic, Maronite, the Prime Minister, Sunnit, and the President of the Parliament, Shi'ite.

Confessional demography, nevertheless, still plays a major role in politics because of the electoral system. Parliamentary seats are equally distributed among Christians and Muslims and allocated to the different sects according to their importance. But the voters can elect any candidate within their constituency. This means that candidates for a Maronite seat have to be Maronite but are elected by any voter registered in the constituency. Considering the confessional mix of the Lebanese territory, the delimitation of the constituencies is a major issue in the electoral law and larger electoral constituencies, with a mixed voting body, usually favour candidates of the majority.

One way to weigh on the results of the elections is to register groups of people on electoral lists of places different from their place of residence. This illegal practice has been observed in 1996 for recently naturalized individuals (Verdeil, 2005). For the same reason, the claim for the right to vote

2 The issue of the relation between nationality, citizenship and migrations, is very interestingly analyzed by Jean Leca for contemporary Europe (Leca: 1992)

abroad (which would greatly modify the electoral game in itself), when associated with the claim for the restitution of the nationality to Lebanese descendants, generates a debate, which concerns major political issues.

The Lebanese Nationality and the Emigrants

The Lebanese nationality was legally created on 30 August 1924 with decree 2825 applying the Lausanne Treaty. One year later, decree 15/S of 19 January 1925 defined the rules of the transmission and attribution of the nationality. These decrees were inspired by the Ottoman law of 19 January 1869, which was itself inspired by the French code of nationality. Under the Mandate and Independence afterwards, laws and decrees modified and enriched the legislation, namely on the issue of the loss of nationality. Disregarding the fact that the laws contain incoherencies, all attempts to establish a new code of nationality have been blocked because of internal political struggles.

According to decree 15/S, an individual whose father is Lebanese is also Lebanese. A Lebanese woman does not transmit the nationality to her children unless in exceptional cases. When a Lebanese man marries a foreign woman she obtains the nationality automatically. But when a Lebanese woman marries a foreign man he is liable to foregoing agreement of the government to obtain the nationality, as the foreigner born in Lebanon or the one who resides in the country for minimum five years. Such naturalizations are liable to a political decision, as will be explained. To summarize, the norm of the transmission of the nationality is patrilinear affiliation and naturalization is almost always subject to the discretionary power of the State.

In this respect, Lebanon is not different from other countries in the Middle East but with the exception of Lebanon, all Arab states facilitate the naturalization of Arab nationals. This shows the ambivalent perception of Lebanon as an Arab country.

Concerning individuals of Lebanese origin, two types have to be distinguished. There are those whose ancestor carried the Lebanese nationality and those whose ancestor never obtained the nationality, which was the case for many emigrants who migrated as Ottoman citizens before the creation of Greater Lebanon. For the first group, to obtain the nationality, it is enough to prove one's descent even if one's birth has not been registered at the Lebanese consulate. The law considers this a case of 'confidential birth' without consequences for the nationality (Consultative Center for Studies and Documentation, 1998: 6). The second case is different because even if 'Lebanese origin' is established, the law demands that the solicitor commits himself to return to Lebanon for good (Baz, 1969: 238-240). In order to understand these Lebanese particularities, we'll have to go back to the conditions of the attribution of the nationality to emigrants after the creation of Greater Lebanon according to the Treaty of Lausanne.

The Entitlement To Option

The entitlement to option refers to the possibility, under certain conditions, for Ottoman citizens to choose a nationality that is different from that of the country where they reside. As it was said, according to article 30 of the Treaty of Lausanne, the Ottoman subject acquired *ipso facto* the nationality of the state where they were usually residing at the date of the implementation of the Treaty, for Lebanon on 30 August 1924. But according to articles 31 through 33, and under specific conditions, it was also possible to choose the nationality of another state succeeding the Ottoman Empire. Finally, according to article 34, those residing abroad could choose the nationality of their country of origin. The possibility to choose a different nationality remained open for two years. These articles combined the principles of *jus sanguinis* and *jus solis*.

Two scenarios are taken into consideration. In the first one, according to articles 31-33, those who lived in Ottoman territories could choose the Turkish nationality (article 31) or the nationality of

another state succeeding the Empire (article 32). However, it was specified that they had to differ in *race* from the majority of the population of the territory where they resided and had to choose the nationality of a state where the majority of the population was from the same *race* (article 32). The use of the word *race* is confusing but can be understood as ‘origin’ (Abu Dib, 2001: 110). Moreover, they had to transfer their permanent residency to the state, for which nationality they opted, within 12 months or their entitlement to option would be cancelled (article 33). The second scenario concerns those who lived abroad. For them, the conditions were different since they could only choose their country of origin and were not obliged to transfer their residency (article 34).

It is important to emphasize that the Treaty of Lausanne applied two mechanisms of option, for the persons within the Empire and for the migrants abroad. Various reasons can explain this difference. On the one hand, considering the economic importance of emigration for sending countries, through remittances, it would have been counterproductive to oblige emigrants to come back home. Moreover, in the case of Lebanon, their weight in the confessional balance was a major political issue. Bilateral agreements with Turkey resulted in the renewal of the delay during which migrants could opt for the Lebanese nationality in 1937 and in 1952.

On the other hand, migrations within the empire were perceived differently, because migration was seen as contradictory with nation state building. In the beginning of the last century, more than today, the nation-state ideology recommended the adequacy between residence and national belonging (Gellner, 1989). For Turkey and the countries detached from the Ottoman Empire, the unique allegiance of the population was a major issue because they inherited a religious and ethnic mosaic and were engaged in the process of nation-building. Turkey, more than others, tried to homogenize its population. This led to the genocide of the Armenians and mass exchanges of population with Greece. Article 33 of Lausanne's treaty was a tool to promote homogenization even if section III guaranteed the rights of the minorities. Later on, Turkey encouraged the persons who had chosen a different nationality to transfer their residency by signing several bilateral agreements to renew the one year delay.

Also international migrations challenge the homogenization of the population and both sending countries and receiving countries have prohibited the double nationality, some countries, among them the United State, signed agreements with sending countries to recognize the double status of the migrants and to define their rights and obligations. In Lebanon, following the Gouraud-Knabenshue agreement (15 November 1921), a Lebanese migrant who has been naturalized in the U.S., upon his return to Lebanon, can only enjoy the protection of the American consulate during the two first years of his stay.

How Many Opt for a Different Nationality?

Ottomans of Lebanese origin living abroad on 30 August 1924, had to turn to the French diplomatic and consular agents, within a period of two years in order to obtain the Lebanese nationality and to be inscribed in the registers of the Civil Status. It is possible that many of them were unable to do so because they lived too far away from a French consulate or were not informed about the procedure. Later on, this argument was used to justify the bilateral agreements to extend the time period, a first time in 1937, for one year, and a second time in 1952, for six years. Moreover, different measures facilitated the registration. For example, any act that could be considered an evident manifestation of the will to preserve the Lebanese nationality was accepted as such (Abu Dib, 2001: 86).

How many Ottoman emigrants from Lebanese origin obtained the nationality remains uncertain As is often the case when dealing with statistics, the political issues related to the question forbid the production and diffusion of reliable figures. The total of 167 000 persons might be a good estimation (Consultative Center for Studies and Documentation, 1996: 18) but two data are missing: the amount of options during each one of the three delays and the distribution by religious confessions. The table, which relies on the census of 1932 and a government figure of 1943, tries to fill in these gaps.

Table 1: Number of options by religious confession (1932 and 1943)

Confession	Census of 1932 from the Official Journal, n°2718, 10 October 1932						Statistic of 1943			
	Residents	%	Emigrants before 1924				Presents	%	Options	%
			Not paying taxes	%	Paying taxes	%				
Sunnites	178 100	22,44%	12 493	6,92%	2 653	4,42%	225 594	20,80%	4 913	3,07%
Chiites	155 035	19,54%	7 520	4,02%	2 977	4,96%	200 698	18,50%	9 367	5,87%
Druzes	53 334	6,72%	5 272	2,81%	2 067	3,44%	71 711	6,61%	4 863	3,04%
Total (Muslims)	386 469	48,71%	25 285	13,52%	7 697	13,28%	498 003	45,92%	19 143	11,99%
Maronites	227 800	28,71%	90 154	48,21%	31 697	53,29%	318 201	29,34%	91 278	57,20%
Greek Orthodox	77 312	9,74%	44 068	23,56%	12 547	20,91%	106 658	9,83%	33 655	8,31%
Greek Catholic	46 709	5,88%	23 734	12,69%	7 190	11,98%	61 956	5,71%	13 272	21,09%
Other Christians	45 125	5,7%	2 553	1,38%	632	0,62%	99 603	9,12%	2 225	1,4%
Total (Christians)	396 946	50,03%	160 509	85,84%	52 066	86,80%	586 418	54,07%	140 430	88%
Total	793 396	100%	186 984	100%	59 981	100%	1 084 421	100%	159 573	100%

Notes: Columns in the left-hand section of the table report figures from the 1932 census (Maktabi, 1999: 161), comprising the number of residents in Lebanon and the number of emigrants who left before 1924 and, among the latter, non-tax payers and tax payers. Next to each column is the percentage of each confession in proportion to the sum. The right-hand section of the table reports the 1943 statistics (Chami, 2002: 14-15). Unlike the 1932 census, the population is divided in presents and options, what means that emigrants who left after 1924 are probably counted with the presents. This could explain the surprising decrease of the proportion of Muslims among the residents in comparison to the resident population of 1932. As previously, next to each column is the percentage of each confession in proportion to the sum.

The census of 1932 is of great interest because it distinguishes residents from emigrants. Moreover, the latter are counted separately depending on whether or not they left before or after 30 August 1924 and whether or not they paid taxes. With these figures, it is possible to estimate the number of options during the first period of 1924-1926. But one question arises: did all the emigrants listed in 1932 in the category of those who left before 1924 choose the Lebanese nationality? According to a first hypothesis, this seems logical because they wouldn't have been considered Lebanese and therefore wouldn't have been listed if it were not the case. On the other hand, a different hypothesis might be valid. Since the census was based on the declarations of the families in Lebanon, it is very well possible that migrants were included based on the information of their relatives in Lebanon. In that case we cannot learn much from the number of migrants listed in 1932 in the category of those who left before 1924 and only the number of migrants who left before 1924 and who paid taxes can be considered as the minimum amount of options between 1924 and 1926. Indeed, those who paid taxes certainly obtained the nationality since taxes can be interpreted as an evident manifestation of the will to preserve the Lebanese nationality. The first hypothesis, giving a total of 186 000 option, is less probable than the latter with 60 000 cases, also because it does not fit with other figures.

The second interesting point of the 1932 census is that it shows that it were mainly Christian migrants that used their entitlement to option. Until the 1920's, Lebanese migrants generally came from the Christian area of Mount Lebanon. Comparison of the confessional distribution of the

population among resident and migrants shows that the main Christian communities³ (Maronite, Greek Catholic and Greek Orthodox) are overrepresented among the latter.

The second part of the table confirms this conclusion. These data are based on a government statement from 1943, just before the independence. The French commissioner had appointed a new President of the Republic, Ayoub Tabet, who tried unsuccessfully to impose a new distribution of the seats in Parliament in favour of the Christians. This repartition of parliamentary seats would be proportional to the whole population, residents and 'emigrants', that-is-to-say those who had chosen the nationality. In a very polemic context, Tabet published the details of a poll and declared that, since 1924, 159 573 Lebanese entitled to the option had exercised their right in order to obtain the nationality. The total of the options remains however unknown since the outcome of the last extension, between 1952 and 1956 is unknown.

The table confirms that the huge majority of the options were Maronites, Greek Orthodox and Greek Catholics. This, more than any other reason, explains why the (pro-Christian) government prorogated several time the delay of the option. After the census of 1932, the supporters of *Lebanism* and, among them, those supporting a Christian Lebanon, were worried about future changes in the confessional balance. Some of them thought that the 'livability' of the country depended on the existence of a strong demographic majority of Christians. This was the case for Emile Eddé, president of the Lebanese Republic from 1936 till 1939, who proposed to isolate some large Muslim regions (Tripoli and Jabel Amel) from Greater Lebanon. His proposal was a washout but the confessional demography remained one of the central preoccupations during this period, reflected in the first extension of the delay of the option, agreed upon by Turkey and the Mandatory authorities in 1937.

Less than a decade later, in 1946, an agreement between Lebanon and Turkey provided a new extension, which was not enforced before the 29th of September 1952, one week after the election of Camille Chamoun as President of the Republic and following the demission of Bechara el Khoury under the pressure of the street. The extension was valid for two years and was renewed twice. Then, in 1958, probably because of the political instability of the country and the retreat of Chamoun, no further extension was provided. At the time of the agreement at the end of 1946, Bechara el Khoury was president. Early in 1946, he had supported a new law mainly dealing with the loss of nationality. Among the different articles, one concerned the individuals from Lebanese origin and stipulated that all emigrants from Lebanese origin who wanted to acquire the Lebanese nationality had to return permanently to Lebanon. This law contradicted article 34 of the Treaty of Lausanne that did not constraint the emigrants to come back home. This probably generated disputes among members of el Khoury's government during the year 1946 and the agreement with Turkey can be understood as a way to by-pass the obligation of permanent return.

Return as Condition for Naturalization

Article 2 of the law of 31 January 1946 stipulates that 'All persons from Lebanese origin, living abroad and not having opted for the nationality, can demand to be considered as Lebanese when they return to Lebanon permanently. A decree will be taken in this sense by the Council of Ministers.' (Baz, 1969: 238)

In fact, the commitment of a permanent return cannot overrule the constitutional right of freedom of movement. Furthermore, the law does not foresee any sanction in case of departure (Baz, 1969: 87 ; Abu Dib, 2001: 125). The conditions to obtain the nationality on the basis of this article are therefore not so hard. However, in 1949, possibly in an attempt too gain more control on who could become Lebanese, the government issued a decree making the procedure more complex. The reason may be

3 This is not the case for others Christian communities (Armenian, Syriac and Chaldean). It is possible that the clause on the origin in article 34 prevented them to ask for the Lebanese nationality in case they would have wanted it, because they came originally from outside of Lebanon.

that after the 1948's war many Palestinians civilians fleeing the violence took refuge in Lebanon. After the defeat, they couldn't return to Palestine and the Lebanese government had to deal with this refugee population. Some Palestinians, mainly among the Christians and the bourgeoisie, were progressively granted the Lebanese nationality (Sfeir-Khayyat, 2005: 141-150). Some obtained the nationality on the basis of their Lebanese origin, in accordance with the law of 31 January.

Decree no. 398, issued by the government on 26 November 1949 in an attempt to gain more control on the naturalization process, stipulates that once the applicant has proven his origin, the General Security will conduct an inquiry to determine whether he has relatives in Lebanon and whether he inherited goods, after which the Minister of Interior transfers his file to the Council of Ministers with a positive or negative advice. Finally, the applicant has to commit himself in written to reside permanently in Lebanon. Relatively to the terms of the law itself, decree no. 398 implements several changes. First, it complicates the procedure to prove one's Lebanese origin by the inquiry of the General Security. Second, it increases the discretionary power of the government on the naturalization: while the law simply notes that the Council of Ministers will take a decree of naturalization, decree no. 398 confers to the Minister of Interior the power to give positive or negative advices before transferring the file to the Council of Ministers. In the first case, the government cannot object the naturalization unless the conditions of residence and origin are not fulfilled (Dib, 1979: 10). But in the second case, the Ministry of Interior plays a major role what has great repercussions on the political and electoral level because of clientele practices during the elections.

The 1994 Naturalization Decree and the Confessional Equilibrium (1994-1999)

The discretionary power of the State permitted the executive power to decide over the decrees of naturalization in function of confessional, clientele and even financial interests, while at the same time certain categories of people were excluded from the nationality. The number of naturalized persons since Lebanon's independence is unknown, probably hundreds of thousands. An exhaustive study of the politics of naturalization has still to be done. To give an example, between 1958 and 1975, 100 000 persons have been naturalized among whom 88 000 Egyptians of Lebanese origin⁴ who 'recovered' the nationality between 1960 and 1964, during the launching of the socialist program of Nasser.

In the 1990's, claims for the reintegration in the nationality of individuals from Lebanese origin are directly related with confessional controversies about the 1994 decree of naturalization. In order to illustrate this relation, it is not our aim here to treat the decree of 1994 in details but it is necessary to deal with it before focusing on the different stages of the debate it engendered.

The Decree of Naturalization of 1994

After the end of the civil war in 1991 and the legislative elections of 1992, the elaboration of a code of nationality was one of the construction sites for the new government of the new Prime Minister Rafic Hariri. A Commission of Nationality under the presidency of Michel Edde was created, but the proposals of this commission did not obtain the government's support. Instead of a general law project, the government implemented a decree of naturalization. For this purpose a Commission of Naturalization was established, presided by Habib Efreem. After having registered the demands for naturalization until September 1993, the Minister of Interior, Bechara Merhej, announced on the 22 of June 1994 the publication of decree no. 5247. This soon enough became the object of a long political battle. Indeed, in 2003, the Council of State, who was appealed to, asked the Ministry of Interior to reconsider certain applications.⁵ The causes of this political struggle are numerous. For its advocates

4 According to a report of the General Direction of the Personal Status. See *An-Nahar*, 2 September 1975 and *As-Safir*, 7 January 1976.

5 This reconsideration has not yet been put into practice.

this decree corrected a historical injustice by granting the nationality to different groups of individuals, born and residing in Lebanon, to whom nationality had been refused unjustly. For its opponents the decree betrayed the principles of the ‘Lebanese formula’, since it did not respect the confessional equilibrium, and went too far in the direction of the implantation of Palestinian refugees, since it gave the nationality to some of them. Moreover the decree was considered to have several irregularities, among them the naturalization of foreigners that were not even residing in Lebanon.

The nationality has been given to different groups of stateless people or refugees born in Lebanon or living there since a long time: The Palestinians of the Seven villages, Syrian, Iraqi, Armenian, Turks, groups of Bedouins settled in Lebanon, the Arabs of Wadi Khaled, among others. For the supporters of the decree, these populations were the symbols of passed politics of exclusion, which should be rectified by the decree.⁶

Exactly how many persons were naturalized 1994 is unknown. At the time of the publication of the decree, the Minister of Interior announced simply to have accepted 38 900 applications of individuals and families. Since an application of a family could include a large number of persons, the estimations vary. Soon after the publication of the decree the General Direction of the General Security announced that there had been 91 000 naturalized persons, but other sources mentioned 130 000. In the following months and years, there have been many more estimations; some of them were simply political outdoing/provocations. According to two ways of counting the number of the naturalized can be situated between 108 and 220 thousand (Atallah, 1999: 114).

The confessional distribution is even more uncertain. Under reserve, it is estimated that two third of them were Muslims and one third Christians. Among the Muslim, Sunnites and Shiites were almost equally represented. Some Alawis from Syria also benefited from the nationality. Among the Christians, the Armenian and the Syriac represented the majority but some Greek Orthodox, Greek Catholics and Maronites were also naturalized.

The lack of confessional balance became a central argument in the battle against the decree. In the context of the after war, the argumentation on the confessional equilibrium took the national dialogue about the ‘living together’ as its reference. In the 1990’s, on the basis of a ‘will to live together’, the ‘Lebanese formula’ is little by little proclaimed to be a fundamental principle of Lebanese politics. This means that each of the main religious communities, Christian and Muslim, should be equally represented in the Lebanese State disregarding their demographical importance, as the Taef Agreements stipulates. Each should also have a kind of veto on fundamental issues and no major political decision should be taken without reaching a consensus. All decisions concerning nationality and naturalization were considered fundamental because of their consequences on the demographic balance. Therefore, the decree was depicted as illegitimate since it betrayed the spirit of the consensus that characterizes the Lebanese democracy (Frangieh, 2005: 136).

Building up the Contestation

For its proponents, the President of the Republic, Elias Hraoui, the President of the Council of Ministers, Rafic Hariri and the Minister of Interior, Bechara Merhej, the decree marked the end of a historic injustice of confessional quota. The main loyalist parties supported them: the Amal Mouvement, the Social National Syrian Party (SNSP), the Communist Party, the Najjades. All claimed to be in favor of the promotion of equality before the law and the absence of confessionalism. A representative of the Amal Mouvement, for example, praised the efforts of the President of the

6 The Arabs of Wadi Khaled are Bedouins who used to migrate between Syria and Lebanon before their settlement in the Bekaa valley. The Seven villages, located next to the border, were initially Lebanese before becoming Palestinian through the agreement between the French and the British early in the Mandate. In 1948 they took refuge in Lebanon and, since then, a juridical and political argument took place to know whether they are entitled to the nationality or not. These Palestinians are Shiites, unlike the majority.

Republic: 'to extent the right to the nationality to all those residing on the Lebanese territory and all those who have the right to obtain it.' (*As-Safir*, 24 June 1994)

The SNSP said that it was very pleased that the decree guarantees 'that the conditions of the national concordance are not those of the confessional concordance' (*As-Safir*, 24 June 1994).

The political decision preceding the decree could have only been taken in a context where the Christians, the Maronites in particular, were politically marginalized. It seems that the Maronite representative within the Commission of Naturalization, Nemetallah Abi Nasr, member in the executive committee and future general secretary of the Maronite League, presented requests of Lebanese from the diaspora,⁷ but on the basis of the criterion of residence the Commission of Naturalization refused these requests.

After the official announcement of the decree, Abi Nasr visited to the Maronite patriarch and speaking in the name of the Maronite community declared:

[We demanded] respect for the equilibrium of the confessions while attributing the nationality to those who have the right to obtain it in order to preserve the composition of the Lebanese people for the future. We were surprised by the publication of a decree that attributes the nationality to residents. The numbers that were published in the press were incorrect and the results of the differences in the [confessional] balance are much larger. (...) Between the implantation [of Palestinians], unbalanced naturalization, intensive Christian emigration, (...) is it the aim to create a Lebanon of only one color? (*As-Safir*, 24 June 1994)

To rebalance the decree, he added that 'it is necessary to naturalize persons from Lebanese origin living abroad because they maintain political, social and economical relations with Lebanon.' He did not say it explicitly but implied is the understanding that the latter are mainly Christians.

In the days following its publication, other politicians reacted to the decree. Georges Saade, for the Kataeb, for example, considered 'that this file has to be treated with respect for the principle of equilibrium, and that it is also necessary to take the national interest into consideration. (...) An enlarged national meeting should have preceded the decree in order to establish the basis of the attribution of the Lebanese nationality.' (*l'Orient le Jour*, 28 June 1994)

He also pleaded for the naturalization of individuals from Lebanese origin.

The Maronite patriarch reacted in his dominical sermon following the publication of the decree. He regretted that individuals from Lebanese origin haven't been included and insisted on the importance of the demographic balance for the 'Lebanese formula'. Possibly in a gesture toward the Syriacs and Armenians community, he added that he was pleased with the newly naturalized. Then, three weeks later, he was more severe when he criticized 'the attribution of the nationality to a large number of persons without making the effort to verify whether they have really been filled with the Lebanese spirit, the spirit of forgiving, of democracy, of responsible freedom and respect for Human Rights.' (*l'Orient le Jour*, 18 July 1994)

The declarations of the opposition articulated different themes and referred to the principles of 'living together' mentioned above. First there was the issue of the confessional balance that would threaten the existence of Lebanon if it was not respected. Then, there was the question of the implantation of the Palestinians, at a time that the fate of the refugees was debated in the frame of the Oslo peace process. Thirdly, there was the issue of the Christian exclusion from the political decision making. Finally, they referred to the benefits of naturalization for the nation and therefore to the importance of the 'quality' of the naturalized.

7 Contrary to what it is said in the press at this time, he pretended to me that he did not presented files of Maronites from abroad. N. Abi Nasr, interview, Jounieh, 27 January 2006

At first, the government reacted half-heartedly. Concerning those who the press now calls ‘the descendants from Lebanese origin’, reference was made to the administrative disorder in the registers of the Civil State due to the civil war, which impeded certain emigrants to acquire the nationality. The promise to solve this problem as soon as possible permitted to avoid the legal debate on the naturalization of individual whose ancestor never exercised there entitlement to option and who would have to come back permanently in Lebanon in order to have the nationality.

Between the end of the summer and the beginning of the fall 1994, three events influenced the evolution of the debate. The first was the outbreak of a serious conflict within the government about the relocation of Palestinian families living in the center of Beirut and chased away because of the works of reconstruction. A project to reinstall them in permanent housing was seen as a prelude to the implantation of Palestinian refugees. Walid Joumblatt, Minister of the Displaced and proponent of relocation, was vividly criticized by the Minister of Information Michel Samaha, who one year later attacked the decree of naturalization after leaving the government. In the Christian public opinion, this debate incited fear about their being outnumbered demographically after an inevitable implantation. A columnist of the daily newspaper *l'Orient le Jour* even presented the potential recovering of the nationality of descendants from Lebanese origin as a compensation and prelude to implantation.⁸ The second event was the action of the Maronite League appealing to the State Council to cancel the decree. At this time the League did not aim at obtaining the improbable revision of the decree but only positioned itself against the government. As mentioned above, seven years later the State Council demanded the revision of certain files. The third event was the replacement of Bechara Merhej by Michel Murr at the Ministry of Interior. With Murr, the government proposed a new decree of naturalization, the ‘annex’, compensating the confessional imbalance of the first. For the new Minister the annex was a tool for his political and electoral games and in the following years it encountered increasing opposition.

The Games of the Ministry of Interior

In 1996 legislative elections took place. The distribution of civil status certificates to the naturalized has started the previous year under supervision of Michel Murr. A few months before the legislative elections, the press revealed several cases of ‘parachuting’, that-is-to-say the registration of groups of newly naturalized persons on electoral lists of constituencies where they don't reside. Confronted with the denunciation of irregularities and clienteles' practices, Murr created a commission within his Ministry to investigate. The regulations of this commission gave it the right to withdraw the nationality of a person who was recently naturalized, if the place of registration on the electoral list did not correspond to the place of residence. This clearly shows the double game of Michel Murr. The aim of the commission was by no means to investigate the ‘parachuting’ but, on the contrary, to assure the political loyalty of Murr's clientele.⁹ It was, indeed, in Murr's electoral constituency of the Metn that the instrumentation of the vote of the naturalized was most obvious (Verdeil, 2005:14). At the same time, Murr seduced the public opinion with his promise of an annex, which he never kept. It was the same commission, investigating the ‘parachuting’ that also received the demands of naturalization for the annex that he promised to publish in September 1996.

In January 1997, the debate resurged after the newspaper *al-Diar* published a list of more than 2000 names of South African Maronites of Lebanese origin demanding the nationality. The front page titles ‘After Murr's negation on the existence of emigrants' demands for naturalization *Al-Diar*

8 See Emile Khoury's articles in *l'Orient le Jour*: ‘Naturalisation, émigrés, réfugiés : A tout prendre un même problème’ on 14 July and ‘Le maintien de la présence palestinienne toujours en vedette’ on 26 August 1994.

9 In Lebanon, people usually vote in the place of origin of their family and not in their place of residence. Despite the fact that the vote is confidential, one can retrace the origin of the ballots, at least per extended family, during the counting of the results, if sufficiently informed on the intentions of the voters.

publishes the names and figures of a memorandum of the embassy: 521 files for 2036 descendants of Lebanese origin in South Africa ask to recover the nationality.' (*Al-Diar*, 14 January 1997)

Michel Murr apologized and repeated his promise for the annex and announced that within two months the deposit of demands for naturalization would start. He had to abandon his project again because it soon met with strong criticism from all political sides. The Council of Muftis under the presidency of Sheikh Mohammad Rashid Kabbani criticized the principle of confessional adjustment. The Maronite League and the Maronite Church called for a revision of the decree and the Minister of Foreign Affairs, Fares Boueiz, on the side of the opponents, asked for a new law instead of a decree to facilitate the naturalization of the persons of Lebanese origin.

Later on, during the summer, Michel Murr seemed to take sides with the President of the Republic, Elias Hraoui, who prepared an official visit to Brazil. In the end of August, one week before his departure, Hraoui tried to pass a law project. According to the text, 'every person of Lebanese origin, who lives abroad and did not opt for the nationality, has the right to demand it. This demand will be granted by decree on the advice of the Minister of Interior' (*l'Orient le Jour*, 30 August 1997).

This project, which confirmed the key role of the Minister of Interior in the naturalization process, soon encountered strong opposition from several ministers close to Rafic Hariri, such as Walid Joumblatt. In provocative declarations, the latter demanded the naturalization of those living in Lebanon and denounced a project that harms the national unity. Like in 1994, the debate was set in the framework of the Palestinian implantation and the confessional balance. President Hraoui finally gave in but one year later, at the end of his mandate, in November 1998, there was again question of adopting the annex. This project encountered stronger resistance among the Christian opposition for several reasons. First, the annex would regulate the situation of a few thousands of individual but it would leave unsolved, legally speaking, the question of the millions of persons from the Lebanese Diaspora. Second, it would not have been strategic to accept a compromise at a time when the Council of State was still studying the appeal of the Maronite League against the decree of 1994. A final explanation could be that the Christians were politically divided and marginalized after the war and the boycotted elections in 1992 and the locked ones in 1996. They suffered from a lack of legitimacy. The rejection of the decree and of any compromises became a symbol of political determination. In this sense it may have helped the creation of a unified Christian opposition, as it finally appeared under the patronage of the Maronite Patriarch at the Gathering of Kornet Chehwan.

Jus Sanguinis and Jus Solis: Juridical Debates

The 1994 decree of naturalization caused many political controversies but it also initiated many legal commentaries that raise broader questions about the principle upon which the Lebanese nationality should be based. As it has been said, the decree turned residence into the main criterion of naturalization, which refers to *jus solis* in opposition with *jus sanguinis*. Migrations challenge this position and it is not by chance that several studies of Lebanese Law refer in their introduction or foreword to the issue of the relation between nationality and emigration. Wajdi Mallat, for example, underlines the importance of the Lebanese migration and its implications on the norms of nationality (Abu Dib, 2001: *foreword*). As to Jean Baz, he defends the idea that the right of the blood imposes itself as the basic principle for the nationality for any state with a high percentage of emigration (Baz, 1969: *foreword*).

In the following, we'll focus on the law that obliges those of Lebanese origin who wants to acquire the nationality to permanently return in Lebanon (article 2 of the law of 31 January 1946). It was mentioned above that this condition is not as hard as it appears but its importance does not lie in its application but in the legal norm that it installs. The spirit of this law says that national belonging should coincide with residence, contrary to article 34 of the Lausanne's treaty which offered the Ottoman emigrants two years to become Lebanese nationals without being obliged to return to Lebanon. The many extensions of the delay, in 1937 and in 1952, permitted again to do so.

This normative change also has practical consequences. If the law admits that any individual with Lebanese origin may become a Lebanese national without even coming in Lebanon it means that persons or organizations can organize census among the Lebanese diaspora and collect demands for the nationality. The mass naturalization that would follow could have important consequences for the electoral, political and confessional balances. In 2003 Abi Nasr presented a draft law that rephrased parts of article 2 of the law of 31 January 1925 and decree 398 of November 1949 but instead of the condition of permanent return it asked for a minimal residency of three months in Lebanon.¹⁰ This proposition constitutes a compromise in the tension between a territorial and an affiliative definition of the Lebanese nationality. This tension is also reflected in analyses of the Lebanese law. To illustrate the different positions I'll compare two different studies.

The first analysis is from Badaoui Abu Dib, author of the Lebanese Nationality. Abu Dib presents himself as non-partisan and supporter of a free Lebanon (interview, Beirut, 26 November 2003) but his analysis is clearly politically oriented. The second analysis is a report of the Consultative Center for Studies and Documentation, the center of research of the Lebanese Hezbollah.

For Abu Dib, the limitation in time of the entitlement to option and the obligatory return do double injustice to the emigrants who are persons of Lebanese *blood* to whom nationality is a right. In reference to the decree of 1994 he considers that the nationality was arbitrary and excessively given to Arab refugees.

The big majority of individuals of Lebanese origin, living outside of Lebanese territory, has not opted/ for the nationality, despite the fact that they are emigrants and sons of emigrants. Its cause is the weakness of the Lebanese diplomatic services in the countries of emigration. (...) This is how only a minority of Lebanese emigrants have opted for the nationality even if they outnumber the resident population. As to the law of the 31st of January 1946, it is far from filling the gap or changing the past (...). If the proportion of Lebanese emigrants who opted for the nationality is minimal, the amount of emigrants in North and South America, who returned permanently to Lebanon, is almost zero, contrary to the quantities of persons arriving in Lebanon from certain Arab countries after political crises. Lately, nationality has been assigned to persons without distinction, without care and in a administratively and legally arbitrary way. (Abu Dib, 2001: 123)

In the text of the Consultative Center for Studies and Documentation the naturalization of individual from Lebanese origin is presented as a confessional claim. Contrary to Abu Dib, the author sees the obligation of a permanent return not as an injustice but as a guarantee of national loyalty. He argues that Lausanne's Treaty stipulated that emigrants should return to Lebanon if choosing the nationality, but incorrectly refers to article 31 to 33, concerning those who where living in a territory formerly included in the Ottoman Empire, instead of article 34 concerning migrants abroad and which did not mention the transfer of residence. His argument, that article 2 of the law of 31 January 1946 is in conformity with the norms of the Treaty of Lausanne, is therefore misleading. Furthermore, he insists on 'the necessity to link the right of the blood with the right of the soil for all emigrants willing to recover the Lebanese nationality'. This idea of the double condition of blood and soil is inspired by an approximate translation of the terms *jus sanguinis* and *jus solis*. In Arabic, these notions are usually translated as *rbât al-dam* and *rbât al-ard* what can also be understood as 'blood-bond' and 'soil-bond'. While normally jurists mention the Latin expression with the Arabic translation, this is not the case here. The notion of *jus*, right, loses its sense and is substituted by the notion of condition. The obligation of residence for individuals of Lebanese origin who ask for the nationality cannot be called *jus solis* as the author does. Part of the debate on the right of the soil should therefore be understood in the light of this semantic misunderstanding of which this text is not the only example. Finally, in reference to the naturalization issue the author stresses that the purpose of the 1946's law was not only

10 This initiative goes hand in hand with another draft law providing the election of 12 new members of Parliament representing the Lebanese elected by those who carry the nationality and reside abroad. This proposal also marks an evolution in the direction of a compromise in regard to previous claims demanding the addition of the votes abroad to the original constituencies of the voters.

to guarantee the loyalty of the naturalized but also to avoid massive naturalization organized and manipulated at State level.

The Treaty of Lausanne and the ruling gave (the Lebanese nationality) to the Ottoman individual who was not living on the territory on the 30th of August 1924, if he manifested his desire to obtain it by using his entitlement to option. (...) It is evident from the study of articles 31 and 32, in accordance with article 33, that the Treaty of Lausanne based the Lebanese nationality on two basic principles the right of the blood and the right of the soil (...) [Article 2 of the law of the 30th of January 1946 and ruling 398] confirm the necessity to link the right of the blood with the right of the soil for all emigrants willing to recover the Lebanese nationality. In our opinion this link between blood and residence points to the importance of the loyalty of the Lebanese to his country and his reintegration in the society. This condition excludes that the recovery of nationality is only based on the right of the blood. (...) In our opinion, the condition of a permanent return (...) prevents to abuse the Lebanese abroad [those who don't carry the nationality]. Indeed this text poses two principles. According to the first, the State should not search for the Lebanese abroad in order to naturalize them and, according to the second, nationality is based on loyalty and is not a gift. (Consultative Center for Studies and Documentation, 1996: 2)

These two analyses of the restitution of the nationality to persons of Lebanese origin reflect some of the main classical Lebanese divisions, at confessional and political level. Both texts denounce arbitrary naturalizations as political decisions and both try, not very successfully, to refer to legal arguments to justify their positions. It is first of all the intensity of the political conflict with its concern for the confessional balance that accounts for the lack of consensus concerning the norms of nationality.

Conclusion

Recently, in May 2006, the government proposed a draft law, so-called 'the card of the emigrant', to grant 'the emigrants who don't have the nationality different rights, as the exemption of visa and the possibility to acquire a property, except the political rights.' (*L'Orient le Jour*, 12 May 2006). A few weeks later, the National Commission for the Electoral Law recommended that the Lebanese nationals residing abroad should participate in the legislative election by voting in the Lebanese embassies and consulate.

These two examples illustrate the regular resurgence of questions related to the Lebanese abroad in political debates in Lebanon. A detailed analysis of these and other examples would show, in an additional way as the examples discussed in this paper, that the issues at stake are related with normative definitions ('who is Lebanese?'), legal prescriptions (who is eligible to the nationality?), electoral organization (who can vote and how?), and economic interests (remittance, tourism and real estate). We recommend that further research on these debates focus on the relation between nationality and citizenship.

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