

Draft Law to Create the Green Card

The following article is the translated text of the Green Card draft law endorsed by Member of Parliament Neematallah Abi Nasr and submitted to the Minister of Justice Ibrahim Najjar for review.

Article I:

A card commonly called "The Green Card" shall be created, and granted to the husbands and children of Lebanese women married to foreigners if all the conditions set forth in this law are met:

1. The Lebanese wife shall have maintained her Lebanese citizenship.
2. The couple must be married for over five years, while the husband and children must have been living in Lebanon, on an irregular basis, for over three years.
3. The applicant must not have been convicted of a crime or felony or have attempted to commit a criminal act, nor shall he be stripped of his civil rights.
4. He must not be divorced from his Lebanese wife.
5. He shall not be a holder of the nationality of a hostile state.
6. The native country of the applicant must have in place reciprocal treatment for members of the Lebanese diaspora.

Article II:

The application should be submitted, together with all required documents, directly to the Ministry of Interior and Municipalities by the applicant personally or by a proxy holding an official power of attorney expressly conferring to him the power to apply. In the case of minors, parents should apply. The Ministry of Interior keeps a special record of all signatures and formalities related to the application, and refers it to the committee set forth in Article IV of this Act.

Article III:

The Ministry of Interior and Municipalities should set up a committee composed of:

- A judicial judge of at least the tenth grade or an administrative judge of a similar degree, with an alternate judge, both designated by the Minister of Justice after the approval of the Supreme Judicial Council, or the Office of The State Advisory Council: President

The Director General of the Ministry of Interior: Member

The Director General of the General Security: Member

The Secretary General of the Ministry of Foreign Affairs and Emigrants: Member

This Committee should be formed by virtue of the decision of the Minister of Interior and Municipalities, and an alternate for each of the members above-mentioned should be appointed. A civil servant of the third category in the Ministry of Interior and Municipalities should be entrusted with the functions of General Secretary of the committee, delegated by the Minister of Interior for this purpose. The committee's work mechanism, as well as the indemnities of its members are determined by a decree issued by the Council of Ministers upon the proposal of the Minister of the Interior and Municipalities and the Minister of Finance.

Article IV:

The Committee shall study the applications referred to it by the Ministry of Interior and Municipalities, and to this end, it may resort to all competent

administrations, with no exceptions, and call the applicant to an interview, if need be. A report shall consequently be drafted by the committee, containing its observations and recommendations as to the acceptance or refusal, for it to be submitted to the Ministry of Interior within a maximum period of two months from its date of referral thereto.

Article V:

The Green Card is granted by a decision of the Minister of Interior and Municipalities upon the committee's recommendation.

Article VI:

The fees for the Green Card should be determined in the General Budget Law, and the said card should only be delivered after payment of the fees in the Treasury Fund.

Article VII:

1. The Green Card grants its holder the civil rights of Lebanese citizens, including:
 - The right of residency in Lebanon, valid for five years as of the date of reception, renewable every five years;
 - The right to work in the private sector without a work permit;
 - The ability to enter Lebanon without a visa;
 - The right to benefit from the National Social Security Fund like the Lebanese citizens;
 - The right to benefit from the services provided by the Ministry of Social Affairs, as well as from other national ministries, and public institutions the same way Lebanese citizens do;
 - The right to invest and to establish businesses and firms the same way Lebanese citizens do;
 - The right to enroll in Lebanese public schools and universities like all other Lebanese citizens.
 - The preferential right to benefit from all services provided by Lebanese diplomatic missions and consulates in the celebrations and events they organize;
 - Any other similar rights or privileges.
2. Nonetheless, the Green Card does not allow its holders to:
 - acquire the Lebanese citizenship;

- qualify for jobs as civil servants, vote in elections, or run for local or parliamentary positions. It also denies them the right to form or participate in Lebanese political parties and associations;
- work in any profession regulated by a syndicate, when the bylaws of these syndicates allow membership of foreigners;
- Green Card holders shall be subject to the same property laws applicable to foreigners in Lebanon in conformity with the principle of reciprocal treatment.

Article VIII:

The Green Card shall be cancelled and taken from its holder by virtue of a decision issued by the Minister of Interior and Municipalities based on the recommendation of the Committee provided for in Article IV of this Act and, at the request of the applicant or if any of the terms and conditions set forth in the second article of this law is not fulfilled.

Article IX:

This law enters into force upon publication in the Official Gazette.

Explanatory Statements

Whereas the Lebanese law, as regards the acquisition of the nationality, is based on the principle of blood ties and not territory, and therefore Lebanese men can pass their nationality on to their children regardless of place of birth, be it in Lebanon or abroad, while Lebanese women married to foreigners are denied this right, in accordance with the principle of blood ties.

Whereas we believe in the principle of equality among citizens and in order to address the complaint filed by the Lebanese women married to foreigners, who are denied this right which is granted to men.

Whereas we are keen, at the same time, to take into account the past and current demographic problems in Lebanon caused by the scarcity of resources, given the fact that they do not meet the needs of the Lebanese citizens due to the booming high demographic density and inflation, which has exceeded the acceptable limit, thereby pushing its citizens, especially the youth, to emigration. Hence,

stricter and intolerant measures were adopted in granting citizenship to foreigners in general, including those who married Lebanese women, and their children, no matter how long their residency on Lebanese territory.

But, aware of the hardship and expenses incurred by the husbands and children of Lebanese mothers married to foreigners, residing in Lebanon, to obtain residency and work permits, and conscious of the difficulties they face to enroll in Lebanese public and other schools and universities ... The current draft law addresses all difficulties faced by the children and husbands of Lebanese women

married to foreigners, for it provides them with all the facilities and rights required to live in Lebanon, and grants them all civil rights enjoyed by Lebanese citizens, except political rights, such as the right to vote and run for elections, the right to form or participate in Lebanese political parties and associations, the right to own property and to acquire the Lebanese nationality. Therefore, we have prepared this proposal requesting our distinguished colleagues to study and enact it in the General Assembly.

Translated by Lara Lahoud

Responses Generated by this Controversial Draft Law

Silence is No Longer Gold!

“My Nationality is a Right for me and my Family”

An Open Letter to MP Nematallah Abi Nasr

National Commission for Lebanese Women

It is time we name things by their names,
It is time to say No to those who speak of women
with disparagement,

It is time to say Stop to those who believe that just
because they are men, they can silence women; those
who think they can utter words the law ought to
sanction.

Mr. Abi Nasr, we women are citizens whose right of
citizenship, right to work, right to achieve and right
to be nominated in the parliamentary elections are all
guaranteed by the Constitution, just like yours are.

We, women, are citizens, some of which are
practicing attorneys much like you, and excel at their
work, just like you. Then what advantage do you
have over us Mr. MP?

You state that there is no room in Lebanon for
women and their children. But is there room for
foreign women and their children when married to
Lebanese men? Is there room only for children of
Lebanese men? Why is that? Aren't men and women
equals according to the Constitution? Don't working
women pay their taxes just like you do, Mr. MP?
Don't women fulfill their duty to defend the
homeland when they are needed just like you...

We do not wish to feel sorry for women in Lebanon.
These women are a source of pride and honor. These
women excel over their male counterparts every
time the opportunity presents itself. These women,
who have entered the world of labor through
narrow doors and who, if one takes into account the
thousands of years where men dominated the lives
of women in every possible way, have been able to
prove themselves capable in the realms of economy,
management, and politics just like you have Mr. MP.

We do not want you to take back what you have said. But if the resources are not sufficient for the husband and children of a woman, how can they be sufficient for the wife and children of a man? We want you to carry out your suggestion just as long as it applies to both men and women. We ask but for equality!

You wave the “demography” card in our faces. No one can control demography. The ultimate opportunity for all those anxious and fearful is that this country, which has been under the yoke of its multi-confessional system for so long, is for it to become a nation for all its sons and daughters, men and women equal in duties and in rights.

We do not expect you to change your position. But we do ask of women to open their eyes and realize that what MP Neematallah Abi Nasr said undermines their dignity and their very existence. Mr. MP addresses us as if we were mere maids. He says to us: no, “your nationality is not your right or a right for your families”. Oh but yes Mr. MP,

we are just as Lebanese as you are. Our ancestors are from here. We do not want our daughters and grandchildren to live far away from us. We will no longer accept this talk that disrespects our position and our will.

You want to implement your suggestion. So be it. Just as long as it applies to both men and women like the Constitution so clearly states it. It is time to end this masquerade, Lebanese women, just as Lebanese men, deserve to live in a state of tranquility and stability, Lebanese women, just as Lebanese men, have the right to choose their partners, Lebanese women, just as Lebanese men, have citizenship rights and duties, It is unfair that you deprive women of their rights under false pretenses and make them and their families pay alone the price of long-lasting problems caused by the multi-confessional system. It is time to render justice to women. Modifying the Citizenship Law is not a privilege; it is one of women’s basic rights which needs to be reclaimed.

Yet Another Modest Proposal

Brian Prescott-Decie

When Jonathan Swift published his satirical essay “A Modest Proposal for Preventing the Children of Poor People in Ireland from Being a Burden to Their Parents or Country, and for Making Them Beneficial to the Public” in 1729, he little knew that he was starting a chain of events that would in time become a common pastime – the writing of “Modest Proposals” on a vast range of subjects. Member of Parliament Neematallah Abi Nasr recently offered his own “modest proposal” with regard to the issue of Nationality Law in Lebanon, to wit that the state should offer the families of Lebanese women a Green Card similar to the system normally practiced in the USA and elsewhere in the western world. We cannot know, and should not try to guess, what motives Abi

Nasr had in making this proposal – to put words into a man’s mouth is an evil thing indeed – so I shall take it, for the sake of this argument, that Abi Nasr’s motivation must be entirely altruistic, and that he is a statesman of the highest caliber. We can, however, test his proposal using logic to see what effect it might have on the recipients of his beneficence, and whether it might have any positive or negative effect on the Lebanese body politic.

Although the American Green Card is only in fact a work and residence permit, it is often perceived as a stepping stone on the road to citizenship, and rightly so, since citizenship in the United States, as in many other countries around the

world, is largely defined as being a recognition of involvement in the community, of which work and residence obviously form a significant part. The person who lives and works in a community, pays taxes, and in general undertakes the obligations and duties of the community, eventually becomes a full member of that community, and thus acquires the right to be considered one of its citizens. Not so here in Lebanon, nor indeed in Abi Nasr's proposal which clearly states that the offer of a green card should be considered an acceptable alternative, not precursor, to citizenship. In this community, citizenship is acquired not out of duty, but solely by descent in the male line. The New Testament of the Bible starts with a catalogue of the generations from Abraham down to David, from David to the Exile in Bablyon and thence down to Joseph. The fact that Joseph was not the father of Jesus is conveniently glossed over with the phrase "and Jacob begat Joseph the husband of Mary, of whom was born Jesus" (Matthew 1:16). So too Abi Nasr would keep the right of citizenship restricted to the male line of descent, and the issue of motherhood carefully glossed over – just another of those "inconvenient truths", to be discussed at best at arm's length. Of the duties and obligations of citizenship he has, naturally, nothing to say, since his definition of that status has nothing to do with duty. His solution is therefore one of practical ways and means. A near automatic entitlement to a Green Card would, he argues, allow the husbands and children of Lebanese ladies, should those ladies be so foolish as to marry foreigners in the first place, to live and work in Lebanon without impediment. They could benefit (and here we must marvel at his largesse) from the great boons of access to the Lebanese Social Security system and even send their children, should they so desire, to public schools. Far be it from me to belittle his proposal, which has some merit, especially for the poorest segments of the community, for whom access to the *daman* (i.e. social security) and to public schooling represent real and desperate necessities. Let us not examine the plight of the Lebanese mother who suddenly discovers that she is unable to bequeath her own property, perhaps her family home, to her own children. After all, her children are foreigners, so the state will seize

her property on her death and her children will not benefit. Let them learn that since they are foreigners, the state has a natural and perfect right to evict them from their own family home as soon as their mother is no longer there. Far be it from me to criticize the fact that these privileged Green Card holders can still only work in the private sector – after all, it would be unreasonable to employ foreigners in the government service – and that there are restrictions even here. Mr. Abi Nasr kindly allows that naturally such *Untermenschen*¹ would not desire to become pharmacists, engineers, bankers or, indeed, members of any of the "syndicated" professions. Perhaps it is their natural fate to be restricted to the laboring classes as housemaids, chauffers, builders' laborers and, perhaps, university teachers.

Of course, this proposal requires that the recipient of a treasured Green Card be the holder of a valid foreign passport. How unfortunate then that there exist in Lebanon whole classes of foreign children who could never benefit. Let us take as an example the wife of a Syrian laborer. He came to Lebanon originally to work, at the princely rate of \$10 per day, uninsured and without receipts or taxes, and stayed to marry. With the arrival, however, of a child or two, this salary proved meager, so he took his leave, returning to his village where his wife, left without funds or means of support for her children, could not follow him. Today he has perhaps even married another wife in his village, but, whether or not he has taken this step, certainly his Lebanese adventure is long forgotten. The Lebanese mother and her children are now in a most unenviable position. Her children cannot get Syrian passports unless she goes to Damascus, and perhaps to her husband's village as well. Even if she makes the attempt, she must fight her way through a foreign bureaucracy to obtain the necessary documentation. While this is theoretically not impossible, it must be admitted that, unless she has an unexpectedly good education, and enough money, she must find more than a few impediments in her way, and the natural result is that her children are likely to be without passports, possibly even without birth certificates. Without these documents however, under Mr. Abi Nasr's

plan, no Green Card can be forthcoming for them, so they will not be eligible for either social security or public schooling. When they attain the age of 18, the children are likely to be summarily sent to Syria because without passports they cannot obtain work permits even in the unlikely event that they can find an employer prepared to sponsor their stay. That this case is not an imaginary one is too well attested to merit comment here. The lady (Samira Soueidan) whose Egyptian husband died, leaving her in Lebanon but with Egyptian children, and whose case at the District Court of Jdeideh-Metn has been so much in the news of late, is just one of many such.

A further case not covered by Mr. Abi Nasr's proposal strikes closer to home. I am 58 years of age, and in the normal course of events at my university, may expect to retire at the age of 65. At this point, or at some point not too long thereafter, I shall no longer have an employer. How then, can the Ministry of the Interior authorize a Green Card for me, since it is tied by definition to my job? The answer might be that there is currently some small provision for a husband who is not working. There is indeed an administrative procedure whereby a residence permit can be obtained without a work permit on presentation of sufficient funds in the bank, but this rule is hedged around by a great restriction. The sum that must be on current deposit is very large – some \$67,000 to the best of my knowledge – and cannot be replaced by a banker's bond or guarantee. There must be many Lebanese families, let alone families where one partner is foreign, who would balk at the idea of having to maintain a current account minimum balance of this magnitude. Perhaps Mr. Abi Nasr assumes that, even though my wife is gainfully employed, our house fully owned and debt free, and some income assured for my retirement, we, my wife and children and I, should, merely because sufficient current cash is not available on account, be uprooted and transferred to my country, a land foreign to her and to our children, where she would be unlikely to find work of the sort she currently does, or perhaps he has merely not realized the difficulties that this might entail. Either way, as a citizen of Lebanon, my wife should surely have the right to cry "no fair"!

We might continue an examination of the problems and perils that the Green Card solution may entail, but these would remain minor issues beside the greater practical effects on the Republic of which my wife is so proud to be a citizen, and I to be a guest. Mr. Abi Nasr's proposal would seem to contain pitfalls on a much wider scale. There is already a considerable drain of educated and skilled Lebanese out of the country. While we may not be certain of the exact numbers of Lebanese living in self-imposed exile all over the globe, from Dubai to Mexico, from Nigeria to Brazil, France to California, we must be very sure that this is a very large number, far exceeding the number of Lebanese currently residing in their own country. Mr. Abi Nasr's proposal merely encourages Lebanese women who have married foreigners to follow their brothers and sisters into self-imposed exile. In time, of course, they will then cease to be a problem for the state. The wives will probably become permanent emigrants, proud possessors (like so many other Lebanese citizens) of that most valued of documents, a foreign passport. Their children will be brought up as foreigners and, having no rights in Lebanon, will probably forget that they ever had any connection with their mother's country. At most, they may attend the occasional reunion in the Lebanese club of their city, where they will learn to dance a *dabke* (i.e. a Lebanese folk dance) and perhaps enjoy a *mezze* (i.e. traditional Lebanese appetisers). Perhaps the assumptions of citizenship under which this proposal is made can explain this odd attitude, for certainly it seems unlikely on the face of it that Mr. Abi Nasr intends to drive people intentionally away from their own, and his, country. The basic principle of nationality by male descent is that the wife should, on marriage, move to her husband's village. Thus Mary, the wife of Joseph, became a resident of his town of Nazareth, and, when the authorities called for a census, accompanied him to the place where his family record was kept, Bethlehem. Thus, more relevantly perhaps, it was also through several centuries of Ottoman domination. But today, in the 21st century, the world has changed. We no longer need a passport issued by the Ottoman authorities to travel from one village to the next, and the train, the car, and airplane have all resulted, together

with the telecommunication systems, telephone and Internet, in a much much smaller “global village” in which people, singly or as families, move much more freely. In these circumstances, it is most likely that neither wife nor husband will end up in the village of their ancestors. Though they may retain ties with it, they will not necessarily be close ones. Children will be born (like Jesus) in cities to which they are not native. Sometimes, like my children who, though British, were born in Beirut, they will then remain in that city, go to school, make friends, and so on. Such children can hardly be told, at an arbitrary age, that they must “go home”. Home, they say, is where the heart is, or else where the hearth is, and for my children, heart and hearth are both here, where they were born. My wife does not wish to leave the country of her birth, and why should she since it is her birthright. If she were forced to do so, I am certain she would be homesick, which would in all probability damage our marriage. I, on the other hand, am happy to live in her country, because I have learnt to love it, have made friends, and have here a job which I also love. If called upon to defend it, I am as sure as eggs are eggs that I would do so. This I swear, though I am not a citizen. If the husband’s home is no longer the automatic home of choice for a married couple and their children, then a law which is predicated on that state is clearly no longer relevant, and a system of residence permits based on that premise also therefore invalid.

In the past, there have been proposals that the ability of a Lebanese woman to confer citizenship on her husband and foreign children, or even the inverse case of a Lebanese man married to a foreign wife, might be made subject to reciprocity according to the laws applicable in the nation of the foreign spouse. On a practical level this would be complex, since no two nations agree entirely or exactly in this matter, so that the Foreign Ministry and Ministry of the Interior would be obliged to track vast numbers of foreign laws. This is not impossible and is already done on issues such as recognition of marriages, but is obviously difficult, and would entail either many hours of possibly pointless work for officials of the Ministries, and a plethora of legal arguments in a multiplicity

of languages, or that the Republic of Lebanon enter into a vast number of bipartite treaties with other countries. Again on a practical level, it has been suggested that this might solve some of the sectarian fears that have been voiced. It has been argued that citizens of Arab nations which have only male inheritance of citizenship would be excluded and that this would be helpful in maintaining the sectarian balance of the Lebanon, and also that this would have the “merit” of excluding Palestinian refugees who, after all, do not possess a passport which would confer this right. Mr. Abi Nasr’s proposal of a Green Card also has the incidental effect of excluding the passportless Palestinians. Yet Palestinian girls have been marrying Lebanese men for years now, and, even though they then receive citizenship for themselves and their children as a matter of right, the sectarian balance has not been shaken, nor have the numbers of such marriages been very high. It is hard to imagine a great rush of Lebanese women to marry Palestinian men in order to give them, through a marriage of convenience, the right to citizenship. Moreover, there are many simple means by which the Internal Security Forces can determine whether a marriage is real or fake. Other countries have dealt with this efficiently, and so can Lebanon. Indeed, former Minister of State Mona Afeiche recently catalogued a very reasonable set of checks on this, some of which are already in place for the foreign wives of Lebanese men. Proof of residence for a reasonable period together in Lebanon, the existence of a child by the marriage, and some proof of engagement with the community, such as a basic language test, will take care of many of these issues, and an oath sworn to uphold the Constitution and abide by the laws of the land would take care of the legality of it. On the issue of legality, however, the objection must be far more strenuous. If Lebanon were to accept the principle of reciprocity, then the rights of women, citizens of Lebanon, would be dictated not by the Constitution of Lebanon, but by the laws of their husbands’ countries. A change in the husband’s country’s law would, in effect, bring about a change in the laws of Lebanon. I doubt that any lawgiver in this land would find such an abrogation of authority even remotely acceptable.

The Lebanese Constitution is perhaps one of the most complex in the world. That this should be so is not surprising given the complexities of the social structures, religious variety, and the fact that it was written in part at least not by the Lebanese themselves, but by functionaries of the French mandate. That it works at all is close to miraculous. But it contains an inherent contradiction. Article 7, as Mr. Abi Nasr certainly knows, guarantees equal rights, and requires equal duties and obligations of all Lebanese citizens without exception. There is no mention of gender in this article. The adjacent article states that the issue of nationality shall be subject to a separate law, which by virtue of that article, is also effectively part of the constitution, and was apparently written by a French mandate official in 1925, using as his model the laws of France (dating back to the latter part of the 19th century) and of the defunct Ottoman Empire. His major concern was not unnaturally, as is shown by the plethora of articles on the subject, the proper allocation of former Ottoman citizens into the various states and departments of Grand Syrie-Liban and/or of other parts of the former Ottoman Empire now divided into various mandates, kingdoms, and other states. It must be doubtful at least that under these circumstances such a person would even have considered the question of the status of women because in the circumstances and at that time, the issue was simply not relevant. As a result, the law of 1925, faithfully reproduced in subsequent amendments, still states that only a man can pass his citizenship to his children, thus leaving women as second class citizens as regards this issue. In the meantime, and with the creation of an independent Republic, Lebanon has given to women all the duties and obligations of citizenship, vote, tax liability and legal obligations. For this, the creators of the Republic must be commended. But if, as Mr. Abi Nasr appears to propose, the Green Card is to be used in lieu of citizenship, then this inequality of rights will be perpetuated, and the

highest law of the Republic of Lebanon must then continue to contain a very basic contradiction. I have been told that Mr. Abi Nasr is a lawyer, in which case I have no doubt that he well knows that contradictory laws are never a good thing (except of course for those lawyers who can occasionally make a bit of money arguing about them!) and that, when the contradiction occurs in a law as important, basic, and complex as the Constitution, then it is likely that, sooner or later, it must cause serious difficulties. The only way to rectify such a situation is therefore to remove the inequality which is at the root of the legal problem; in this case, to make men and women equal in the Nationality Law, as they are in the Constitution.

There are, in fact, only three possible solutions, and none of them allows for any reasonable negotiable middle ground. One is that the Constitution, not the Nationality Law, is faulty and must be amended to state that equality of rights applies only to men, women having lesser rights. To amend the Constitution is a difficult and dangerous task, as the Lebanese have very good reason to know. The second is that men and women do, as in the Constitution, have equal rights, but neither can confer citizenship to their children or spouses, even within the present limitations, in which case some altogether new principle must be found to confer citizenship, or else Lebanon will in the not too distant future become the first state in history to have no citizens at all. The third, of course, is to accept the Constitution's implied equality of men and women, and therefore give them equally the right to confer citizenship on their children and spouses, and with equal controls in place to prevent misuse of their rights. I leave it to the reader to consider which of these may be the wisest course.

Brian Prescott-Decie is an Instructor of English and Cultural Studies at the Department of Humanities at the Lebanese American University.
Email: bprescott-decie@lau.edu.lb

ENDNOTES

1. Untermenschen is a German word meaning under man, sub-man, sub-human. The term became infamous when the Nazi racial ideology used it to describe "inferior people", especially Jews, Gypsies, Poles along with other Slavic people like Russians, Serbs, Belarussians, and Ukrainians.