

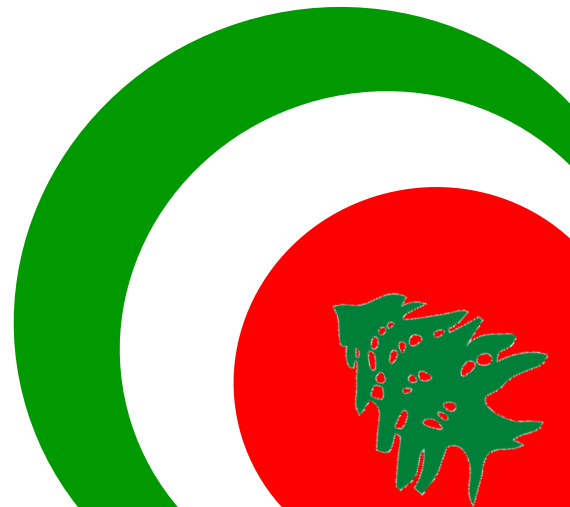


UNITED STATES FOREIGN AND IMMIGRATION POLICIES TOWARD LEBANON: 1975-2011

Clairissa Radyko

**The Lebanese Emigration
Research Center (LERC),
Notre Dame University-
Louaizé (NDU), Lebanon**

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Table of Contents

I- Introduction	6
II- Background Overview of U.S Foreign Policy Toward Lebanon	7
A- Cold War Power Politics: The Lebanese Civil War 1975-1990.....	7
B- Humanitarian and Sovereignty Concerns: Post-War Occupation and Israeli Withdrawal from Lebanon 1991- 2000	9
C- The War on Terror and 9/11: Withdrawal of External Forces from Lebanon, 2001-2011	10
1- <i>U.S. Policy Succeeds: Syrian Withdrawal and the Cedar Revolution</i>	10
2- <i>Efforts to Establish Lasting Peace: 2006-Early 2011</i>	12
3- <i>Hezbollah Takes Control: Beginning of 2011</i>	15
III- Background: U.S. Immigration Policy Towards Lebanon	16
A- Historical Overview of U.S. Immigration Policy	16
B- Categories of Immigration	17
1- <i>Immigrant Visas</i>	17
2- <i>Non-Immigrant Visas</i>	18
3- <i>Refugee and Asylee Status</i>	19
4- <i>Temporary Protected Status</i>	21
IV- Analysis	21
A- Cold War Power Politics: The Lebanese Civil War, 1975 to 1990	22
B- Humanitarian and Sovereignty Concerns 1991 to 2000	25
C- The War on Terror, 9/11 and Democracy Promotion: 2001 to 2011	28
V- Conclusion	36
Appendix A	38
Appendix B	40

ABSTRACT

The author analyzes American migration policy toward Lebanon as it changed in tandem with the events that have unfolded in Lebanon since 1975 in order to understand what impact each factor played in shaping actual Lebanese migration to the United States. Certain events endogenous to Lebanon have served as push factors in the course of Lebanese migration to the United States, but American immigration policy has played, as well, a prominent role in determining the levels of actual migration. The result of these mutual determinants on the emigration process is not straightforward. There are periods when the intensity of war related violence spiked that were also periods of relatively low levels of migration to the United States, for example during the civil war period and the war with Israel. On the other hand, periods when diplomatic stress was low saw both high and low levels of per year immigration. Prima facie, there seems to be no clear explanation for these differences in immigration. Possibly, drastic changes in the numbers of those applying for admission across all categories had to do with other internal Lebanese factors, or factors having to do with the perception of American migration policy. Possibly, American policy goals shifted during the period under study because it was being used as a soft political tool in the service of overall American foreign policy. We can map three distinct U.S. foreign policy focuses that emerge in American migration policy toward Lebanon since 1975. The first focus was defined by the cold war mentality of power politics, with the U.S. attempting to maintain power in the region through military and strategic avenues, and granting lawful permanent resident status and asylum status relative to these larger strategies during intervals of political strain. The second policy focus was defined by humanitarian relief, which prioritized the issues of asylum and granting temporary protected status. Periods where humanitarian avenues of migration have been relatively open to Lebanese migrants correlate to periods of diplomatic stress between Lebanon and the United States. The third and most recent focus is defined by terrorism and security. These issues were brought to the front by the events of 9/11, coupled with Hezbollah's expanding role in Lebanon and the 2006 war with Israel. The foreign policy of the United States changed to one that balanced the struggle against terrorism with the promotion of democracy within the Middle East, which has visibly marked the implementation of American immigration policy vis a vis migrants from the region.

KEYWORDS

Lebanon, United States, Immigration, Foreign Policy, U.S. Visa Categories, Non-immigrant, Immigrant, Asylum, Refugee

I. INTRODUCTION

Sociologists have described a variety of “push-pull” factors that drive immigration. The United States, with its cultural diversity, economic opportunities, and higher living standards, has historically been a magnet to those dissatisfied with their situation in other countries.¹ Push factors from immigrant-sending countries include civil wars and political violence in general, economic deprivation and limited job opportunities, and catastrophic natural disasters.²

This article will explore these “push” factors in regards to immigration from Lebanon to the United States, paying particular attention to the question of the correspondence between a greater rate of immigration and war torn intervals within recent Lebanese history. More than half of Lebanese Americans are descended from immigrants who arrived in the United States between 1880 and 1940.³ These individuals did not displace themselves on a mass scale due to economic desperation, religious persecution or political oppression, but came, for the most part, to improve their economic condition.⁴ However, this paper will focus on Lebanese push events post 1975 and the relatively weak, but dramatic period of Lebanese migration during a period of wars, invasions and civil unrest.

On the American side, we distinguish three distinct foreign policy focuses that have defined migration policy toward Lebanon since 1975. American immigration policy towards Lebanon has altered through our time frame in response to the American policy perception that immigration is a soft political tool that can advance American interests in the Middle East. From 1975 to 1990, the focus was defined by the cold war mentality that cast the U.S. against Soviet interests and alliances in the region. The collapse of the Soviet Union led to changes that defined the second policy focus, from 1991 to 2001, which was marked by concerns about the sovereignty of Lebanon (in relation to Syria and to other seemingly hostile Middle Eastern powers) and humanitarian concerns, with American immigration policy being used as a means of humanitarian relief by, for example, granting temporary protected status (TPS) to Lebanese and relaxing restrictions on asylum law. The opening of these humanitarian avenues of migration for Lebanese migrants correlates to periods of diplomatic stress between Lebanon and the United States. The last change in policy focus was brought about by the events of 9/11. In the aftermath of that attack, U.S. foreign policy prioritized terrorism and security concerns. The expansion of Hezbollah’s power in Lebanon and the 2006 war with Israel marked moments in the turn towards targeting terrorism, which was ostensibly bundled with promoting democracy. These concerns have quite visibly driven American immigration policy towards the region, and towards Lebanon.

Thus, a two sided model is applied. On the one side we track events occurring in Lebanon as determinants in explaining the jumps and lulls of migration of Lebanese nationals to the United States. On

¹ VINCENT N. PARRILLO, *Strangers to These Shores: Race and Ethnic Relations in the United States*, 8/e, 308 (2008).

² Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CONGRESSIONAL RESEARCH SERVICE 6, Apr. 1, 2010, available at <http://fpc.state.gov/documents/organization/141589.pdf>.

³ Alixa Naff, *Lebanese Immigration into the United States: 1880 to the Present*, *The Lebanese in the World: A Century of Emigration* 142, CENTRE FOR LEBANESE STUDIES, (1992).

⁴ Naff, *supra* note 3, at 145.

the other side, we track changes in America's foreign policy focus, with its periods of openness as well as the dramatic restrictions affecting Lebanese nationals after 9/11.

Part II of this article then turns to the background issues of general U.S. foreign policy toward Lebanon from 1975 to 2011. The section opens with a brief discussion of the history of United States actions in and concerning Lebanon, as well as a short review of both the past and current state of Lebanese politics, law, and society since 1975. Discussion in Part III then considers American immigration policy toward Lebanon since 1975, including descriptions of broad immigrant categories available to Lebanese migrants, such as immigrant visas, nonimmigrant visas, asylum and refugee status, and temporary protected status. Part IV of this article analyzes how US the factors that have determined changes in migration policy since 1975, analyzing the roles played by events in Lebanon and the 9/11 terrorist attacks, cold war rivalries and post-cold war humanitarian and territorial sovereignty promotion, and finally anti-terrorism and democracy promotion in Lebanon.

II. BACKGROUND: OVERVIEW OF U.S. FOREIGN POLICY TOWARD LEBANON

Discussion of American migration policy towards Lebanon must begin with an overview of the broader framework defining foreign policy goals towards the Middle East, specifically the events in Lebanon since 1975 and American government attempts to gain influence within the region and avert instability. Since 1975, Lebanon has undergone two wars, various terrorist attacks, assassinations, occupation by multiple countries, and many changes in leadership. Most recently, Hezbollah, a U.S. designated terrorist organization, has gained legitimacy in Lebanon, and the region as a whole. And even more recently, the effects of the Arab Spring, which are still ongoing, have changed the relations of many of the traditional Middle Eastern players and created unpredictable internal situations for authoritarian governments.⁵ Lebanon is geographically located at the center of a struggle that features the United States and Israel on one side, and Syria and Iran on the other.⁶ During the period in question, U.S. policy has often been criticized by Arab dissidents for its foreign policy strategy in the Middle East, and in particular for refusing to support democratic initiatives, preferring instead a stable order even at the price of authoritarian rule among most of the region's players.⁷ Trying to balance support for democracy, policies that favor stability among oil rich states, and backing for Israel, the United States has had a difficult time accomplishing its foreign policy objectives within the Middle East as a whole.

A. *Cold War Power Politics: The Lebanese Civil War, 1975 to 1990*

⁵ Beginning in December 2010 when a man in Tunisia burned himself to death in protest at his treatment by police, pro-democracy rebellions have erupted across the Middle East which has come to be called the 'Arab Spring.' For a timeline of events occurring throughout the Middle East, see Garry Blight & Sheila Pulham, *Arab spring: an interactive timeline of Middle East protests*, GUARDIAN, Sept. 2, 2010, available at <http://www.guardian.co.uk/world/interactive/2011/mar/22/middle-east-protest-interactive-timeline>.

⁶ Judith Palmer Harik, *Hizbollah and Today's Battle for Beirut*, FLETCHER FORUM OF WORLD AFFAIRS (2007).

⁷ See e.g., Karen Leigh, *U.S. and Bahrain: How to Talk Just Tough Enough with an Ally*, TIME, June 8, 2011, available at http://www.time.com/time/world/article/0,8599,2076559,00.html?hpt=hp_t1; Jill Dougherty, *Clinton Switches Gears, Publicly Praises Saudi Women's Driving Protest*, CNN, June 22, 2011, available at http://edition.cnn.com/2011/US/06/21/clinton.saudi.women/index.html?hpt=hp_t2; YA LIBNAN, *US: Any Step Taken with Syria will not be at Lebanon's Expense*, Jan. 1, 2011, available at <http://www.nala.com/news/articletype/articleview/articleid/461/us-any-step-taken-with-syria-will-not-be-at-lebanons-expense.aspx>.

The breakdown of governmental authority that was both a result and a cause of the outbreak of civil strife marked the beginning of the Lebanese civil war in 1975.⁸ An important predecessor to that breakdown had been the influx of Palestinian refugees from Israel, whose camps in Lebanon were a destabilizing element and a target of Israeli violence. The United States responded by providing emergency economic aid, military training, and equipment to what it recognized as the legitimate government in Lebanon.⁹ The United States military and multinational forces under the backing of the U.N. were deployed in Lebanon in the 1980s in order to stabilize the country, while Syria and Israel, deploying their own national policies, also positioned military forces in Lebanon, as well as fighting certain Lebanese factions. The United States understood its military presence as a means of balancing Syria and limiting Israel, with which it was allied.¹⁰ Rivalries with Soviet communism and the new Iranian Islamism dominated U.S. foreign policy in the Middle East as the U.S. supported Israel, tried to ensure the flow of petroleum from friendly states, and promoted stability in the region. Israel, armed with U.S. weapons and firing U.S. ammunition, invaded Lebanon in 1982 and defeated the Soviet backed Syrian Armed Forces occupying the Beka'a Valley.¹¹ The conflict represented yet another instance where American weapons were fighting Soviet weapons in the hand of proxy militaries. The bombing at the U.S. Embassy in Beirut in April 1983 and a bombing at the U.S. Marine barracks in October 1983, killing 272 American civilians and members of the U.S. Armed Forces, compelled the U.S. to withdraw its troops.¹² Syria continued to maintain a large presence, along with a less marked Israeli occupation.¹³ From afar, the United States supported a cease-fire and subsequent efforts to quiet unrest along the Lebanese-Israeli border.¹⁴ The war came to an official end in 1989 when the Taif Accords negotiated between the warring factions effectively ended the hostilities,¹⁵ but the compromise also provided Syria with the legal means of extending its stay in Lebanon.¹⁶

After the war, the United States sought restitution for the bombings inflicted upon its personnel. Despite having no extradition treaty¹⁷ with Lebanon, the United States formally asked the Lebanese government to extradite a Lebanese man accused of killing a U.S. Navy diver during an infamous 1985 hijacking.¹⁸ Lebanese authorities maintained that the accused was covered by the terms of the general amnesty which immunized Lebanese individuals from trial due to acts of violence committed during the civil

⁸ Hassan Krayem, *The Lebanese Civil War and the Taif Agreement*, AM. UNIVERSITY OF BEIRUT, available at <http://ddc.aub.edu.lb/projects/pspa/conflict-resolution.html> (last visited July 5, 2011).

⁹ Casey L. Addis, *Lebanon: Background and U.S. Relations*, CONGRESSIONAL RESEARCH SERVICE, 2, Feb. 1, 2011, available at <http://fpc.state.gov/documents/organization/156510.pdf>

¹⁰ *Id.*

¹¹ Major D. O. Comer, *Why Lebanon?* GLOBALSECURITY.ORG, (1995) available at <http://www.globalsecurity.org/military/library/report/1995/CDO.htm>.

¹² Addis, *supra* note 9, at 2.

¹³ Eric Edelman & Mara Karlin, *Fool Me Twice: How the United States Lost Lebanon- Again*, WORLD AFFAIRS, May/June 2011, available at <http://www.worldaffairsjournal.org/articles/2011-MayJun/full-Edelman-Karlin-MJ-2011.html>.

¹⁴ *Id.*

¹⁵ Harik, *supra* note 6, at 112.

¹⁶ Taif Accords, Oct. 22, 1989, Syr.-Leb. See also Harik, *supra* note 6, at 112.

¹⁷ "Extradition" is the formal surrender of a person by a state to another state for prosecution or punishment,¹⁷ and exists only as a creature of treaty. Garcia & Doyle, *supra* note 17, at 1. The United States has extradition treaties with over a hundred nations, but there is no official extradition treaty between Beirut and Washington. 18 U.S.C. 3181 (West 2002); Rym Ghazal, *Lebanon Mulls U.S. Extradition Requests*, DAILY STAR, Feb. 27, 2006, available at <http://www.dailystar.com.lb/News/Politics/Feb/27/Lebanon-mulls-US-extradition-requests.ashx#axzz1PuD1chJH>.

¹⁸ Elise Labott & Beth Anne Rotatori, *U.S. Seeks Extradition of Accused Killer*, CNN, Feb. 13, 2006, available at http://articles.cnn.com/2006-02-13/us/twa.hijacking_1_hijacking-mohammed-ali-hamadi-extradition/2?_s=PM:US.

war.¹⁹ This meant that cases of particular American interest, including the bombings of the U.S. Embassy in Beirut and the abduction, torture, and murder of U.S. hostages in Lebanon from 1984 to 1991, as well as the 1985 the hijacking of TWA Flight 847 while flying from Athens to Rome with 153 passengers and crew aboard, were essentially beyond litigation.²⁰ This response was understood by the American government as a façade, signaling the fact that the Lebanese government was protecting its Syrian sponsors.²¹

B. *Humanitarian and Sovereignty Concerns: Post-War Occupation and Israeli Withdrawal from Lebanon, 1991 - 2000*

American involvement and interest in Lebanon between 1991 and 2000 was punctuated by rare outbreaks of concern. Globally, the fall of the Soviet Union and the expansion of global trading created a new context for U.S. foreign policy. In the Middle East, the success of the U.S. in leading a coalition to expel Saddam Hussein's forces from Kuwait created a regime of double sanctions against both Iraq and Iran, which fed into various flashpoints during the decade. Throughout the period, the United States granted some economic assistance and small amounts of military aid to the Lebanese effort to recuperate from the civil wars, but overall Lebanon was low on the list of Washington's priorities.²² Lebanon was still occupied by Syria and Israel, with both countries justifying their presence as stabilizing the country. In 1991, the U.N. Commission on Human Rights, by a vote of forty-one in favor and one against (the United States), condemned the continued Israeli violations of human rights in southern Lebanon, including the arbitrary detention of the civilian population, destruction of homes, confiscation of property, and bombardment of villages.²³ The U.S. was involved in the subsequent negotiation of the 1996 Israel-Lebanon Ceasefire Agreement, which focused on minimizing civilian casualties.²⁴ As a result of mounting casualties and domestic and international pressure, in May 2000 Israel withdrew its forces from Lebanon.²⁵

Meanwhile Hezbollah,²⁶ an organization which has been accused internationally of having committed terrorist acts against U.S. personnel and facilities and had sworn to eliminate Israel,²⁷ became a mainstream

¹⁹ A spokesperson from Lebanon said, "Three of those wanted by the U.S. have been pardoned under the General Amnesty Law, and one of them has already served his sentence. So it is not clear why the issue is still being raised." Ghazal, *supra* note 19. See also U.S. DEPT. OF STATE, *Country Reports on Terrorism 2009* 135, August 2010, available at <http://www.state.gov/documents/organization/141114.pdf>

²⁰ The plane was commandeered shortly after takeoff by two terrorists who smuggled pistols and grenades through the Athens airport security. On the second day of the 17-day hijacking and hostage ordeal, the plane was forced to land in Beirut, where Mohammad Ali Hamadi and the other hijackers beat and shot U.S. Navy diver Robert Stethem, 23, and dumped his body on the runway, an image captured by television cameras and shown around the world. NORTHEAST INTELLIGENCE NETWORK, *U.S. Seeks Extradition of TWA Flight 847 from Lebanon*, Feb. 14, 2008, available at <http://homelandsecurityus.com/archives/736>. See also Labott & Rotatori, *supra* note 195. Mohammad Ali Hamadi remains under criminal indictment in the United States for his role in the hijacking, and the United States sought his extradition from Lebanon, however the U.S. has never had an extradition treaty with Lebanon and these efforts proved to be unsuccessful. Hamadi was convicted in a West German court in 1987 of air piracy, murder, and possession of explosives for his part in the 1985 TWA Flight 847 hijacking and spent 18 years in a German prison before he was paroled in December 2005 and is believed to be in Lebanon. U.S. DEPT. OF STATE, *Country Reports on Terrorism 2009*, *supra* note 19, at 135.

²¹ Edelman & Karlin, *supra* note 13.

²² Edelman & Karlin, *supra* note 13.

²³ C.H.R.R. es. 1991/66, 47 U.N. ESCORS upp.(No. 2) at 153, U.N. Doc. E/CN.4/1991/91 (1991).

²⁴ Edelman & Karlin, *supra* note 13.

²⁵ Harik, *supra* 6, at 116.

²⁶ For the purposes of this report, "Hezbollah" is used in referring to the Lebanese Shiite Muslim group. Common alternate spellings include Hizballah, Hizbollah, Hizbullah, and Hizb`allah.

political party, enjoying broad support amongst Lebanon's Shiite community, as well as attracting a significant minority of the Christian population. Part of its attraction was its performance in comparison with the governance of the Lebanese state. Hezbollah effectively performed most public works and welfare functions for its constituencies, making up for the failure of the government to effectively do so.²⁸ These activities included repair and operation of electrical, water, and sewerage networks for the densely populated southern suburbs, as well as the reconstruction of worn or damaged schools, clinics, and water wells.²⁹ As a result of these initiatives, Hezbollah increasingly mainstreamed itself in Lebanon,³⁰ although outside of Lebanon, the U.S. tried to ratchet up pressure against them, with the U.S. Department of State designating Hezbollah as a Foreign Terrorist Organization (FTO) in 1997, thus marking it as a rogue organization in the international community.³¹

C. THE WAR ON TERROR AND 9/11: WITHDRAWAL OF EXTERNAL FORCES FROM LEBANON, 2001-2011

1. U.S. Policy Succeeds: Syrian Withdrawal and the Cedar Revolution

With the withdrawal of Israel and particularly after the terrorist attacks in the United States in 2001, U.S. efforts turned to countering terrorism in the region. The United States incorporated promoting democracy³² and territorial sovereignty within the region as important components of its war on terror,³³ which covered over the fact that they often conflicted with one another in implementation.³⁴ Democracy promotion and combating terrorism came into conflict in Lebanon in particular as Hezbollah began to compete in Lebanon's national and municipal elections and provide extensive social and educational services.³⁵ The U.S. stance hardened. In 2001 the U.S. government designated Hezbollah as a Specially Designated Global Terrorist (SDGT)³⁶ pursuant to Executive Order 13224.³⁷

²⁷ Addis, *Lebanon: Background and U.S. Relations* *supra* note 9, at 5.

²⁸ Harik, *supra* note 6, at 114.

²⁹ Harik, *supra* note 6, at 114.

³⁰ Harik, *supra* note 6, at 114.

³¹ An FTO has a direct link to terrorism as the organization must be found by the Secretary of State to be (a) a foreign organization, (b) engaged in terrorist activity that (c) threatens the security of the United States. Organizations designated as FTOs have their assets frozen in the United States. 8 U.S.C. §1189(a)(1). *See also*, Grant Nichols, *Repercussions and Recourse for Specially Designated Terrorist Organizations Acquitted of Materially Supporting Terrorism*, 28 REV. LITIG. 263, 271 (2008). The FTO designation was made pursuant to Section 219 of the Immigration and Nationality Act as amended by the 1996 Antiterrorism and Effective Death Penalty Act (AEDPA, P.L. 104-132). *See* U.S. Department of State, Public Notice 2612, Designation of Foreign Terrorist Organizations, October 2, 1997 - Federal Register, Volume 62, Number 195, October 8, 1997, pp. 52649-52651. *See* Casey L. Addis & Christopher M. Blanchard, *Hezbollah: Background and Issues for Congress*, CONGRESSIONAL RESEARCH SERVICE 23, Oct. 8, 2010, available at <http://fpc.state.gov/documents/organization/150207.pdf>.

³² The U.S. Congress declared that "a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives." Congressional Findings and Declaration of Policy, 22 U.S.C. § 2151 (West 2002).

³³ Addis, *supra* note 9, at 2.

³⁴ Jeremy Sharp, *Lebanon: The Israel-Hamas-Hezbollah Conflict*, CONGRESSIONAL RESEARCH SERVICE 1, Aug. 14, 2006, available at <http://fpc.state.gov/documents/organization/71845.pdf>

³⁵ *Id.* For a more thorough discussion of Hezbollah's role in social welfare in Lebanon, see Melani Cammett & Sukriti Issar, *Bricks and Mortar Clientelism: Sectarianism and the Logics of Welfare Allocation in Lebanon*, 62 WORLD POLITICS 381 (2010). *See also* Melani Cammett, *Partisan Activism and Access to Welfare in Lebanon*, 46 ST. COMP. INT. DEV. 70 (2011).

³⁶ SDGTs are those organizations or persons:

Meanwhile, U.S. intervention in the Middle East expanded, as the U.S. occupied Iraq, strengthened sanctions against Iran, invaded Afghanistan and toppled the Taliban government there, and increased its support for Israel, a stance that continued to alienate the United States from other Middle Eastern states.³⁸ In Iraq and Afghanistan, initial invasions turned into long term commitments in the face of guerilla war. American policies to combat terrorism provided numerous opportunities for Syria and Iran to undercut U.S. regional policy, with Iran able to expand its own influence in Iraq after the fall of Saddam Hussein with parties that were also, at times, backed by the United States.³⁹ The United States turned its attention to Lebanon, in these circumstances, highlighting the policy of pressuring Syria and Iran to cease their interference in that country.⁴⁰ Building on the tools offered by the Syria Accountability and Lebanese Sovereignty Restoration Act,⁴¹ passed by Congress in late 2003, American policy toward Syria grew more aggressive and outspoken.⁴² The United States implemented various sanctions toward Syria and senior government leaders frequently directed harsh rhetoric toward the Syrian regime.⁴³

The assassination of former Lebanese Prime Minister Rafiq Hariri in February 2005 changed the situation dramatically. Speculation centered on Syria, Iran and Hezbollah involvement in the assassination. The Bush Administration openly criticized the Syrian presence in Lebanon, demanding the withdrawal of Syrian forces.⁴⁴ U.S. diplomatic efforts to remove Syria and Hezbollah as players in Lebanon focused on the application of sanctions against the Syrian government if it did not comply with demands to withdraw its troops from Lebanon and dismantle “all independent militias”—a reference to Hezbollah.⁴⁵ Backed by a strong and broad international consensus, Lebanon came together in the March 14 coalition and over one million Lebanese,⁴⁶ from a variety of religious sects, began demanding a pullout of Syrian troops and

“determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.”

Exec. Order No. 13,224, 66 Fed. Reg. 49,079 (Sept. 23, 2001).

It should be noted that upon being designated a “Specially Designated Terrorist” or a “Specially Designated Global Terrorist,” an organization's assets are frozen by U.S. officials until the organization is removed from the list. Unlike other terrorism designation procedures, there is no formal period for review of an organization's SDGT status or formal notice that an organization has been named an SDGT. These designations should be distinguished from Foreign Terrorist Organizations (FTO). Grant Nichols, *Repercussions and Recourse for Specially Designated Terrorist Organizations Acquitted of Materially Supporting Terrorism*, 28 REV. LITIG. 263, 271 (2008).

³⁷ Addis & Blanchard, *supra* note 31, at 23.

³⁸ U.S. DEPT. OF STATE, *Country Reports on Terrorism 2009*, *supra* note 19; Stephen Zunes, *Peace or Pax Americana? Middle East Policy and the Threat to Global Security*, 46 INTERNATIONAL POLITICS 573, 573-574 (2009) available at <http://www.palgrave-journals.com/ip/journal/v46/n5/abs/ip200914a.html>

³⁹ Harik, *supra* note 6, at 117.

⁴⁰ Harik, *supra* note 6, at 117.

⁴¹ Syria Accountability and Lebanese Sovereignty Restoration Act, Pub.L. 108–175, Dec. 12, 2003, 117 Stat. 2482.

⁴² Edelman & Karlin, *supra* note 13.

⁴³ Edelman & Karlin, *supra* note 32.

⁴⁴ Casey L. Addis, *Lebanon: Background and U.S. Relations*, CONGRESSIONAL RESEARCH SERVICE, 2, Feb. 1, 2011, available at <http://fpc.state.gov/documents/organization/156510.pdf>

⁴⁵ Judith Palmer Harik, *Hizbollah and Today's Battle for Beirut*, FLETCHER FORUM OF WORLD AFFAIRS 117 (2007).

⁴⁶ NOW LEBANON, *March 14*, available at

<http://www.nowlebanon.com/Sub.aspx?ID=165&MID=31&PID=25&FParentID=23&FFParentID=3> (last visited July 19, 2011).

intelligence agents in Lebanon.⁴⁷ The Lebanese populace managed to push Syria's military out of Lebanon in April 2005, ending its 29-year occupation of the country.⁴⁸

The United States welcomed the formation of a new Lebanese government with limited influence from Hezbollah and also strongly supported the United Nations' project of establishing an independent tribunal to prosecute those responsible for Hariri's assassination,⁴⁹ which remains a very controversial issue to this day.⁵⁰ The spontaneous public uprising in the aftermath of the Hariri assassination, which has been called the Cedar Revolution, was taken by the Bush Administration as a "supreme confirmation of its policy of promoting democracy in the Middle East."⁵¹ From the point of view of the changes wrought by events in 2005, it seemed as though U.S. foreign policy in Lebanon had helped create a success story – with the Lebanese feeling empowered enough to push for democratizing changes and delivery from the foreign interference by Syria, embodied in the Syrian troop presence.

2. *Efforts to Establish Lasting Peace: 2006 – Early 2011*

Yet the success of 2005 was quickly complicated by subsequent events. Since the withdrawal of external forces from Lebanon and the subsequent reduction of Syrian influence, Lebanon has struggled to find a new internal balance.⁵² When large-scale fighting between Israel and Hezbollah broke out in mid-2006, U.S. policymakers were hopeful that Israel would wipe out Hezbollah as a force.⁵³ The fighting started when Hezbollah, now a mainstream political party, captured two Israeli soldiers in order to negotiate for the return of territory and prisoners. Instead, Israel launched an offensive that lasted 34 days, combining a crippling air and sea blockade, causing mass destruction to the lives and infrastructure of the Lebanese people, with an infantry advance into Southern Lebanon.⁵⁴ The U.S. Senate passed Resolution 534⁵⁵ condemning Hezbollah and "state sponsors of terrorism" and supporting Israel's right to defend itself.⁵⁶ The Resolution also called for the release of Israeli soldiers who are being held captive; condemned the governments of Iran and Syria for their continued support for Hezbollah and Hamas; urged all sides to protect innocent civilian life and infrastructure; and strongly supported the use of all diplomatic means available to free the captured Israeli

⁴⁷ Alexandra R. Harrington, *A Tale of Three Nations? The Role of United Nations Peacekeepers and Missions on the Concept of Nation-State, Nationalism, and the Ownership of the State in Lebanon, the Democratic Republic of the Congo, and Kosovo*, 21 CONN. J. INT'L L. 213, 224 (2006)

⁴⁸ Edelman & Karlin, *supra* note 13.

⁴⁹ Addis, *supra* note 9, at 3.

⁵⁰ See e.g., Michael Humphrey, *The Special Tribunal for Lebanon: Emergency Law, Trauma and Justice*, ARAB STUDIES QUARTERLY, Feb. 1, 2011, available at <http://arabstudiesquarterly.plutojournals.org/ArticleDetails/tabid/397/ArticleID/284/THE-SPECIAL-TRIBUNAL-FOR-LEBANON-EMERGENCY-LAW-TRAUMA-AND-JUSTICE.aspx>; Jamal Bittar, *Special Tribunal for Lebanon Recipe for Failure*, ARAB AMERICAN NEWS, Dec. 25 2010, 14 vol. 26. Iss. 1298/1299

⁵¹ James Traub, *How Lebanon Was Lost*, FOREIGN POLICY, Oct. 8, 2010, available at http://www.foreignpolicy.com/articles/2010/10/08/how_lebanon_was_lost?page=0,1

⁵² Michael Meyer-Resende, Michel Paternotte, Ammar Abboud, & Said Sanadiki, *Comprehensive Assessment of the Electoral Framework of Lebanon*, DEMOCRACY REPORTING INT'L & LEBANESE ASSOC. FOR DEMOCRATIC ELECTIONS 11, April 2008 available at http://www.democracy-reporting.org/files/assessment_lebanon.pdf

⁵³ Addis, *supra* note 9, at 3.

⁵⁴ INTERNATIONAL LABOR ORGANIZATION, *An ILO Post Conflict Decent Work Programme for Lebanon: Report of the September 2006 Multi-Disciplinary Mission to Lebanon*, Sept. 2006.

⁵⁵ S. RES. 534 109th July 18, 2006.

⁵⁶ Harik, *supra* note 6, at 121.

soldiers.⁵⁷ On July 20, 2006, the House passed Resolution 921, which also condemned Hezbollah's attack on Israel and urged the President to bring sanctions against the governments of Syria and Iran for their alleged sponsorship of Hezbollah.⁵⁸ The United States maintained that it was committed to assisting Lebanon in reasserting itself as a sovereign, democratic, prosperous, and peaceful country⁵⁹ purged of Hezbollah's influence.

As Israel's strategic ally in its war against terror, the United States was sympathetic to Israeli military action against any organization considered to be terrorist in nature.⁶⁰ Although the Israeli government was willing to launch the attacks for its own reasons, the United States played an important role in the implementation of Israel's strategy, from the initial decision to go to war to the length of the conflict and the level of devastation inflicted upon the Lebanese.⁶¹ However, the U.S. quickly lost the moral high ground with the Lebanese population, who took a negative view of the Israeli strike. The fighting represented a setback for the American image in Lebanon and certainly damaged U.S. efforts to support the rebuilding of physical infrastructure and democratic institutions in Lebanon.⁶² The conflict also served as a reminder of ongoing Syrian and Iranian support to proxies in Lebanon and hinted at the possibility of a larger, regional war.⁶³ The United States optimism that Israel would be able to cripple Hezbollah during its campaign proved misplaced.⁶⁴ Israel's mismanagement of the air and ground war was blasted by the Israeli public and media.⁶⁵ The United States blocked the UN Security Council from imposing a ceasefire for several weeks and later threatened to veto any resolution which would have forced Israel to withdraw from Lebanon and stop its military operations, provisions rejected by other Security Council members.⁶⁶

The U.S. then abruptly launched an intense diplomatic effort to establish lasting peace in the region. The war stopped when UN Security Council Resolution 1701 was passed in August 2006, a diplomatic achievement that offered a sustainable basis for a ceasefire.⁶⁷ The Resolution called for a full cessation of hostilities in the month-long war between Israel and Hezbollah, mapping out a formula for the phased withdrawal of the Israel Defense Forces from southern Lebanon, and provided for the entry of up to 15,000 United Nations peacekeepers in the conflict area to help Lebanese troops take control of the area.⁶⁸ The UN Security Council had also unanimously approved Resolution 1595 on April 7, 2005, creating the international

⁵⁷ Sharp, *supra* note 34, at 2.

⁵⁸ Sharp, *supra* note 34, at 2.

⁵⁹ C. David Welch, *U.S. Policy Toward Lebanon*, U.S. DEPT. OF STATE, Oct. 17, 2006, available at <http://merln.ndu.edu/archivepdf/NEA/State/74653.pdf>

⁶⁰ Addis, *supra* note 9, at 3.

⁶¹ Zunes, *supra* note 38, at 581.

⁶² Addis, *supra* note 9, at 3.

⁶³ Addis, *supra* note 9, at 3.

⁶⁴ Zunes, *supra* note 38, at 581.

⁶⁵ Harik, *supra* note 6, at 124.

⁶⁶ Zunes, *supra* note 38, at 584.

⁶⁷ Welch, *supra* note 59.

⁶⁸ SECURITY COUNCIL, *Security Council Calls for End to Hostilities Between Hizbollah, Israel, Unanimously Adopting Resolution 1701 (2006)*, UNITED NATIONS DEPT. OF PUBLIC INFORMATION, Aug. 11, 2006, available at <http://webcache.googleusercontent.com/search?q=cache:jd2FHEn24J8J:www.un.org/News/Press/docs/2006/sc8808.doc.htm+UN+Security+Council+Resolution+1701&cd=1&hl=en&ct=clnk&gl=us>.

tribunal to investigate Hariri's assassination, previously endorsed by the Lebanese cabinet.⁶⁹ The resolution, under Chapter VII of the United Nations Charter,⁷⁰ made the court's rulings binding and provided it with powers to indict and interrogate officials.⁷¹ That same week, Lebanon's Minister of Industry was assassinated by gunmen, and ⁷² cabinet ministers, fearing for their lives, blockaded themselves inside the government building in central Beirut.⁷³ Most Western and US backed Middle Eastern observers agreed that least some of the accused were from the militant organization Hezbollah.⁷⁴ Hezbollah has vehemently denied involvement⁷⁵ and has accused the court of being part of "U.S.-Israeli project" aimed at targeting the resistance group and inciting strife in Lebanon.⁷⁶

Despite suspicions of its involvement, Hezbollah continued to push for an expanded role in the Lebanese government. Some observers have claimed that Hezbollah gained popular support in Lebanon by fighting Israel (more successfully than was expected) and opposing American policy and interference in the Middle East.⁷⁷ The United States watched while continuing to assist and support the pro-Western government until January 23, 2007, when Hezbollah called a general strike aimed at toppling the Lebanese government.⁷⁸ These internal governmental disputes led to a vacant presidency and 18 months of political stalemate,⁷⁹ followed by the 2007 bi-elections, where a relatively unknown candidate narrowly beat the former president, Amin Gemayel.⁸⁰ Some attributed Gemayel's doom to the fact that the Bush administration, by this time highly unpopular in Lebanon, openly supported him.⁸¹ In 2007, in another tactic to undermine Hezbollah's legitimacy and send a political message, President Bush issued Executive Order 13441, which blocks property and interests of individuals acting to undermine "Lebanon's democratic processes or institutions, contributing to the breakdown of the rule of law in Lebanon, supporting the reassertion of Syrian control or otherwise contributing to Syrian interference in Lebanon, or infringing upon or undermining Lebanese sovereignty."⁸² These classifications aiming to topple Hezbollah and Syrian influence in Lebanon have, over the years, become narrower and more specific. President Bush said in 2007, "The problem is that pursuing stability at the expense of liberty does not lead to peace -- it leads to

⁶⁹ The Security Council passed the resolution approving the Special Tribunal by a vote of 10 to 0, with China, Qatar, Indonesia, Russia, and South Africa abstaining. Hassan M. Fattah, *Mixed Reactions in Lebanon to U.N. Assassination Tribunal*, N.Y. TIMES, June 1, 2007, available at <http://www.nytimes.com/2007/06/01/world/middleeast/01lebanon.html>. See also, Harik, *supra* note 6, at 121.

⁷⁰ U.N. Charter, chapter VII.

⁷¹ Fattah, *Mixed Reactions in Lebanon to U.N. Assassination Tribunal*, *supra* note 69.

⁷² Harik, *supra* note 6, at 124.

⁷³ Harik, *supra* note 6, at 124.

⁷⁴ Owen Bennett-Jones, *Lebanese fear choices between truth and stability*, BBC NEWS, July 1, 2011, available at <http://www.bbc.co.uk/news/world-middle-east-13988128>.

⁷⁵ Bennett-Jones, *supra* note 74.

⁷⁶ DAILY STAR, *Hezbollah to Show Further STL Faults: MP Fadlallah*, July 18, 2011, available at <http://www.dailystar.com.lb/News/Politics/2011/Jul-18/Hezbollah-to-harm-further-STL-credibility-Fadlallah.ashx#axzz1SRkIrlBQ>

⁷⁷ Sharp, *supra* note 36, at 2.

⁷⁸ Addis, *supra* note 9, at 3.

⁷⁹ Addis, *supra* note 9, at 3.

⁸⁰ Hassan M. Fattah, *U.S. Promotes Free Elections, Only to See Allies Lose*, N.Y. TIMES, Aug. 10, 2007, available at <http://www.nytimes.com/2007/08/10/world/middleeast/10arab.html>.

⁸¹ Nicola Nassif, a columnist with the left-leaning Lebanese daily Al Akhbar, said, "When the U.S. interferes in favor of one party, their interference leads to an explosion...The U.S. openly says it supports the Siniora government, but it should say we support the Lebanese government." Fattah, *supra* note 69.

⁸² Addis & Blanchard, *supra* note 31, at 24. President Bush's Executive Order was later extended by President Obama in 2010. See Notice, Continuation of the National Emergency With Respect to the Actions of Certain Persons to Undermine the Sovereignty of Lebanon or its Democratic Processes and Institutions, July 29, 2010.

September the 11th, 2001. The policy of tolerating tyranny is a moral and strategic failure. It is a mistake the world must not repeat in the 21st century.”⁸³

Following the agreement in May 2008 that ended the political stalemate, the United States reiterated its support for the government of Lebanon and its “complete authority over the entire territory of the country,” a remark directed toward the issue of Hezbollah refusing to surrender its arms.⁸⁴ Hezbollah, on its side, carefully continued to demonstrate its ability to use only the force of numbers, rather than military power, as an instrument of protest to ensure its legitimacy as a national resistance movement.⁸⁵

The newly elected Obama administration, accepting the wisdom that pressure tactics had failed, entered office committed to a policy of outreach toward Syria.⁸⁶ In 2009, the Western-backed Sunni, Maronite Christian and Druze political parties, which had formed the March 14th coalition, managed an upset victory over Hezbollah's alliance, maintaining control over parliament and the process of choosing a new government in Lebanon.⁸⁷ The United States supported the Lebanese government elected in June 2009 led by Prime Minister Saad Hariri.⁸⁸ While aid to building the Lebanese army continued, the stream of senior US government officials to Beirut slowed, as did public statements on Lebanon-related issues.⁸⁹

Meanwhile, Hezbollah has continued to expand its influence in Lebanese politics.⁹⁰ Iranian President Mahmoud Ahmadinejad's October 2010 visit to Lebanon signaled strong support in the face of continued American efforts to peel Lebanon away from Iran and Syria.⁹¹ "A Hezbollah-controlled government would clearly have an impact on our bilateral relationship with Lebanon," Secretary Clinton told reporters at the State Department.⁹² Designating it a terrorist organization, the U.S. has imposed sanctions against Hezbollah and its members, and U.S. officials are barred from meeting with them.⁹³

3. *Hezbollah Takes Control: Beginning of 2011*

The Special Tribunal of Lebanon (STL), approved by the United Nations to find those responsible for former Prime Minister Hariri's assassination, issued indictments in early 2011 and, though the charges remained sealed, Hezbollah has acknowledged that members of the Shi'ite Muslim movement have been named in the investigation.⁹⁴ For months, Hezbollah has sought to undermine the tribunal, questioning its

⁸³ Elliot Abrams, *Egypt, Lebanon, and U.S. Policy in the Middle East*, COUNCIL ON FOREIGN RELATIONS 2, Feb. 9, 2011, available at <http://i.cfr.org/content/publications/attachments/Abrams.Testimony.2.9.11.pdf>

⁸⁴ Addis, *supra* note 9, at 3.

⁸⁵ Harik, *supra* note 6, at 126.

⁸⁶ Edelman & Karlin, *supra* note 13.

⁸⁷ Raed Rafei & Borzou Daragahi, *Pro-U.S. coalition wins in Lebanon; The Western-backed March 14 bloc upsets Hezbollah's alliance in general elections, unofficial results show*, LOS ANGELES TIMES, June 8, 2009, available at <http://www.free-lebanon.com/LFPNews/2009/June/June9/June9e/june9e.html>.

⁸⁸ Addis, *supra* note 9, at 3.

⁸⁹ Edelman & Karlin, *supra* note 13.

⁹⁰ Addis, *supra* note 9, at 3.

⁹¹ Addis, *supra* note 9, at 3.

⁹² ASSOCIATED PRESS, *Clinton: Hezbollah Govt in Lebanon Bad for U.S. Ties*, Jan. 25, 2011, available at <http://www.nala.com/news/articletype/articleview/articleid/480/clinton-hezbollah-govt-in-lebanon-bad-for-us-ties.aspx>.

⁹³ ASSOCIATED PRESS, *supra* note 92.

⁹⁴ Anthony Shadid, *Crisis in Lebanon Exemplifies Waning Influence of U.S. and Its Allies in Mideast*, N.Y. TIMES, Jan. 19, 2011, at A.8.

witnesses and evidence, and demanding that the government end its cooperation and denounce the charges.⁹⁵ The Lebanese government refused, and in protest, Hezbollah and its allies withdrew from the government, bringing about its collapse after a 14-month tenure.⁹⁶ The collapse of Lebanon's broad-based coalition government resulted after a walkout by all Hezbollah ministers.⁹⁷

The Lebanese government underwent a dramatic governmental change later that same month. The newly elected Sunni Muslim prime minister, Najib Mikati defeated U.S. backed Saad Hariri, also a Sunni.⁹⁸ Hezbollah and the Parliament's largest single bloc of Christians, along with some Sunni and Druze members, provided the numerical edge.⁹⁹ Seeing American influence waning both in Lebanon and the Middle East, Obama named a seasoned diplomat, Robert S. Ford, as ambassador to Syria, the first since 2005.¹⁰⁰ Syria is viewed by Washington as a "state sponsor of terrorism," but U.S. officials have claimed that returning an envoy to Damascus could help persuade Syria to change its policies on issues including Lebanon, and to drop its support for Hezbollah.¹⁰¹

The United States continues to prioritize terrorism and security related issues with its foreign policies initiatives in the Middle East.¹⁰² Hezbollah continues to define itself primarily as a resistance movement and remains strongly opposed to what it views as illegitimate U.S. and Israeli intervention in Lebanese and regional affairs.¹⁰³ The organization refuses to recognize Israel's right to exist and opposes all efforts by Lebanon and all other Middle Eastern states to negotiate resolutions on the basis of mutual recognition.¹⁰⁴ In August 2010, the Obama Administration reported that Hezbollah is "the most technically capable terrorist group in the world" and stated that the group has "thousands of supporters, several thousand members, and a few hundred terrorist operatives."¹⁰⁵ Secretary of State Clinton said:

Our bottom lines remain as they always have been...First, we believe that justice must be pursued and impunity for murder ended. We believe in Lebanon's sovereignty and end to outside interference. As we see what this new government does, we will judge it accordingly.¹⁰⁶

⁹⁵ Shadid, *supra* note 94.

⁹⁶ See Shadid, *supra* note 94. See also Mark Lander & Robert Worth, *Lacking Leverage, U.S. Grasps for a Solution in Lebanon*, N.Y. TIMES, Jan. 12, 2011, available at http://www.nytimes.com/2011/01/13/world/middleeast/13dipl.html?_r=1.

⁹⁷ Shadid, *supra* note 94.

⁹⁸ Nicholas Noe, *Is This Lebanon's Final Revolution?* N.Y. TIMES, Jan. 28, 2011, available at http://www.nytimes.com/2011/01/28/opinion/28noe.html?_r=1

⁹⁹ Noe, *supra* note 98.

¹⁰⁰ Ford's predecessor was withdrawn days after Lebanese PM Rafik Hariri was assassinated in February 2005. BBC, *Robert Ford is First US Ambassador to Syria Since 2005*, Jan 16, 2011, available at <http://www.bbc.co.uk/news/world-middle-east-12202821>

¹⁰¹ BBC, *Robert Ford is First US Ambassador to Syria Since 2005*, Jan 16, 2011, available at <http://www.bbc.co.uk/news/world-middle-east-12202821>; Lander & Worth, *supra* note 96.

¹⁰² Lebanon is not a party to two important international counterterrorism conventions: The International Convention on the Suppression of Terrorist Bombing and the International Convention for the Suppression of the Financing of Terrorism. U.S. DEPT. OF STATE, *Country Reports on Terrorism 2009*, *supra* note 19, at 134. G.A. Res. 52/164, 1 U.N. Doc. A/RES52/163 (Dec. 15, 1997). S.C. Res. 1373, P3(d), U.N. Doc. S/RES/1373 (Sept. 28, 2001).

¹⁰³ Addis & Blanchard, *supra* note 31, at 1-2.

¹⁰⁴ Addis & Blanchard, *supra* note 31, at 1-2.

¹⁰⁵ Addis & Blanchard, *supra* note 31, at 4.

¹⁰⁶ ASSOCIATED PRESS, *supra* note 92.

The State Department has strongly defended its continuing military aid to Lebanon, saying that the army's presence in the south is necessary to maintain the country's stability, and that withdrawal of funding would create a dangerous vacuum.¹⁰⁷

However, outside events may ultimately dictate changes in U.S. policy toward Lebanon. The aftermath of the Arab Spring, which has so far resulted in the overthrow of Khadaffi, the downfall of Mubarek, unrest in the Gulf States, and a violent quasi-civil war in Syria,¹⁰⁸ is changing the entire context of U.S. Middle Eastern relations. The UN mandated Special Tribunal for Lebanon continues to prosecute those assumed responsible for the assassination of Hariri and others.¹⁰⁹ In July 2011, after the names of those indicted in the Tribunal were handed over to the Lebanese government, Lebanon was obliged to arrest and detain the suspects.¹¹⁰ Since Hezbollah is a strong force in the new Lebanese government, few expect that the government will really act, in which case the suspects could eventually be tried in absentia.¹¹¹ All sides, including the United States, are scrambling to deal with the impact of the findings as the government refused to act in the given time frame.¹¹²

III. BACKGROUND: U.S. IMMIGRATION POLICY TOWARDS LEBANON

The above section discussing events in Lebanon since 1975 and American foreign policy toward Lebanon during that period provides the necessary background to delve into the real subject of this paper: U.S. immigration policy toward Lebanon. The following sections will discuss the history of American immigration policy and the categories of immigration available to Lebanese migrants.

A. *Historical Overview of U.S. Immigration Policy*

Faced with an increasing number of asylum seekers, refugees and illegal migrants from across the globe, the industrialized countries of the West have become increasingly concerned with the need to develop prevention and intervention strategies towards countries that generate mass emigration.¹¹³ Receiving countries can often play a role in changing the conditions in the home countries that have forced people to

¹⁰⁷ Robert Worth, *U.S. Aids Lebanese Military Because of, and Despite, What it Gets in Return*, N.Y. TIMES, Aug. 24, 2010, available at <http://query.nytimes.com/gst/fullpage.html?res=9802E1DF1230F937A1575BC0A9669D8B63&pagewanted=2>

¹⁰⁸ See Robert Fisk, *The Arab Awakening Began Not in Tunisia this Year, but in Lebanon in 2005*, INDEPENDENT, Apr. 15, 2011, available at <http://www.independent.co.uk/opinion/commentators/fisk/robert-fisk-the-arab-awakening-began-not-in-tunisia-this-year-but-in-lebanon-in-2005-2268002.html>

¹⁰⁹ See Addis, *supra* note 9, at 6-7. For a thorough article discussing the foreign policy implications of former Prime Minister Rafiq Hariri assassination, see Robert Bosco, *The Assassination of Rafik Hariri: Foreign Policy Perspectives*, INTERNATIONAL POLITICAL SCIENCE REVIEW, 2009, available at <http://ips.sagepub.com.proxy.lib.wayne.edu/content/30/4/349.full.pdf+html>

¹¹⁰ Bennett-Jones, *supra* note 74.

¹¹¹ Bennett-Jones, *supra* note 74.

¹¹² "This is not the Nuremberg trials, where the whole world was in agreement, or a trial over a massacre in Rawanda, where millions were killed," said Riad Kahwaji, director of the Institute for Near East and Gulf Military Analyses in Dubai. "This is a trial for the political murder of several individuals, and what is at stake is the stability and security of the whole region." Fattah, *Mixed Reactions in Lebanon to U.N. Assassination Tribunal*, *supra* note 69. See Deborah Jerome, *Lebanon Approaches Tipping Point*, COUNCIL ON FOREIGN RELATIONS, Jan. 24, 2011, available at <http://www.nala.com/news/articletype/articleview/articleid/477/lebanon-approaches-tipping-point.aspx>; Colum Lynch, *U.S. Aims to Establish International Tribunal in Hariri Assassination*, WASH. POST, May 16, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/15/AR2007051501941.html>

¹¹³ Myron Weiner & Rainer Munz, *Migrants, Refugees, and Foreign Policy: Prevention and Intervention Strategies*, 18 THIRD WORLD QUARTERLY 25, 26 (1997).

leave. The role can be supportive, in the form of emergency assistance, development aid, trade or investment. It can also take the form of intervention in the internal affairs of a state through diplomacy, the withdrawal of support, economic sanctions, and even military intervention.¹¹⁴ Policy makers must consider not only the economic dimension in both the host and home countries, but also the civil society and human rights dimension in the home countries when human rights violations, ethnic repression and civil wars threaten the lives of many people there and instigate mass migrations.¹¹⁵ The United States, which is constantly adapting its own immigration laws in the light of these factors to limit and filter who it can admit, has used the above mentioned political instruments regarding Lebanese migration. These political methods will be discussed later in the analysis portion of this paper. The method that most effectively manages migration, however, is the receiving country's immigration law.

Since the Immigration Amendments of 1965 in the United States ended the country-of-origin quota system that overwhelmingly favored European immigrants,¹¹⁶ American immigration policy has arguably been more equitable and less discriminatory in terms of country of origin¹¹⁷ and “no person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth, or place of residence.”¹¹⁸ From this standpoint, Lebanese nationals should not be treated any differently than anyone else; however, there are several mechanisms built into the Immigration and Nationality Act (INA) that certainly have affected Lebanese migration to the United States.

B. *Categories of Immigration*

The INA distinguishes two broad classes of aliens:¹¹⁹ immigrants and nonimmigrants. Immigrant visas focus on long term, permanent migration though policies favoring family reunification and employment-based immigration. Nonimmigrant visas are for temporary visitors. Those for whom visas are not required, including humanitarian admissions, such as asylum seekers, refugees, parolees and other aliens granted relief from deportation, are handled separately under the INA. Those aliens granted asylum or refugee status are ultimately eligible to become legal permanent residents (LPRs), the same designation given to immigrant visa holders. Each category will be explained in the following sections.

1. *Immigrant Visas*

Immigrant visas are for individuals who seek to permanently immigrate to the United States and become legal permanent residents (LPRs). The new standards favor immigrants with close American or LPR relatives and employment-based visa seekers with easily marketable skills in the United States, generally the

¹¹⁴ Weiner & Munz, *supra* note 113, at 18.

¹¹⁵ Weiner & Munz, *supra* note 113, at 18.

¹¹⁶ Under the Johnson-Reed Act of 1924, Lebanon was allotted 100 immigrants annually. National Immigration Act of 1924, ch. 90, §§11(b), 13(c), 43 Stat. 153, 159 (National Origins Act) (repealed 1952). *See also* Alixa Naff, *Lebanese Immigration into the United States: 1880 to the Present*, The Lebanese in the World: A Century of Emigration 142, CENTRE FOR LEBANESE STUDIES, (1992)

¹¹⁷ Wasem, *supra* note 2, at 20.

¹¹⁸ 8 U.S.C.A. § 1152 (a)(1).

¹¹⁹ Immigration and Nationality Act (INA) (McCarran Act) (McCarran-Walter Act) June 27, 1952, ch. 477, 66 Stat. 163.

highly educated.¹²⁰ Quotas, which are used by most nations, set fixed numerical limits for admission of immigrants from a given country and are used as important tools of migration management. The INA provides for a permanent annual worldwide level of 675,000 immigrant visas.¹²¹ The permanent worldwide immigrant level consists of the following categories: family-sponsored immigrants, including spouses and children of U.S. citizens and family-sponsored preference immigrants;¹²² employment-based preference immigrants;¹²³ and diversity immigrants.¹²⁴ Petitions for LPR status are first filed with United States Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS) by the sponsoring relative or employer in the United States.¹²⁵

The INA also established per-country levels at 7% of the worldwide level.¹²⁶ The per-country level is not a “quota” that denotes the number set aside for individual countries, since it is mathematically impossible, given the limited pool of worldwide immigrants, for each country in the world to receive 7% of overall visas given in that year.¹²⁷ Applicants from India, China, Mexico or the Philippines face backlogs partly due to the fact that the number seeking immigrant status exceeds the annual 7% per-country ceiling, but most other countries are not affected, including Lebanon.¹²⁸ Significant backlogs in other countries are due to the sheer volume of aliens eligible to immigrate to the United States,¹²⁹ as citizens and LPRs often wait several years for the relatives’ petitions to be processed.¹³⁰ After USCIS processes the petitions, the relatives of U.S. citizens and LPRs then wait for a visa to become available through the numerically limited categories.

2. *Non-Immigrant Visas*

¹²⁰ Hossein G. Askari & John Thomas Cummings, *The Middle East and the United States: A Problem of “Brain Drain,”* 8 INT’L J. OF MIDDLE EAST STUDIES 65, 69 (Jan. 1977). While the absolute numbers of employment-based migrants admitted were high between 2000 and 2004, they accounted for only 11.6 percent to 16.8 percent of all immigration to the United States. ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, INTERNATIONAL ORGANIZATION FOR MIGRATION, & INT’L LABOUR OFFICE-GENEVA, *Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination* (2006).

¹²¹ 8 U.S.C.A. § 1153. *See also*, Wasem, *supra* note 2, at 2.

¹²² Plus certain unused employment-based preference numbers from the prior year. 8 U.S.C.A. § 1153

¹²³ Plus certain unused employment-based preference numbers from the prior year. 8 U.S.C.A. § 1153

¹²⁴ 8 U.S.C.A. § 1153; Andorra Bruno, *Refugee Admissions and Resettlement Policy*, CRS Report RL31269. *See also* Wasem, *supra* note 2, at 2.

¹²⁵ If the prospective immigrant is already residing in the United States, the USCIS handles the entire process, which is called “adjustment of status” because the alien is moving from a temporary category to LPR status. If the prospective LPR does not have legal residence in the United States, the petition is forwarded to the Department of State’s (DOS) Bureau of Consular Affairs in their home country after USCIS has reviewed it. The Consular Affairs officer (when the alien is coming from abroad) and USCIS adjudicator (when the alien is adjusting status in the United States) must be satisfied that the alien is entitled to the immigrant status. These reviews are intended to ensure that they are not ineligible for visas or admission under the grounds for inadmissibility spelled out in INA. Wasem, *supra* note 2, at 1.

¹²⁶ Wasem, *supra* note 2, at 5.

¹²⁷ 8 U.S.C.A. § 1152 (a)(2). As the State Department has stated, the per-country level “is not an entitlement but a barrier against monopolization.” *See* Wasem, *supra* note 2, at 5.

¹²⁸ Wasem, *supra* note 2, at 19.

¹²⁹ Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CONGRESSIONAL RESEARCH SERVICE 13 (last updated April 17, 2006) available at <http://fpc.state.gov/documents/organization/65767.pdf>

¹³⁰ By the end of 2004, United States Citizenship and Immigration Services (USCIS) reported 4.1 million immigrant petitions were pending. Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CONGRESSIONAL RESEARCH SERVICE (last updated April 17, 2006) available at <http://fpc.state.gov/documents/organization/65767.pdf>

Nonimmigrants, different from immigrants permitted to stay permanently in the United States, are admitted for a designated temporary period of time and for a specific purpose.¹³¹ There are a total of 24 major nonimmigrant visa categories and 87 specific types of nonimmigrant visas are issued currently, which allows for a wide range of people to enter the country, such as tourists, foreign students, and businessmen, diplomats, temporary agricultural workers, exchange visitors, internationally-known entertainers, foreign media representatives, and intracompany business personnel.¹³² The U.S. government provides instructions that prescribe the correct documentation applying to each visa type.¹³³ Certain types of visas are valid for multiple entries and for multiple years.¹³⁴ These time periods are negotiated with each country, generally reflecting reciprocal relationships for U.S. travelers to these countries.¹³⁵ The law and regulations set terms for nonimmigrant lengths of stay in the United States, typically have foreign residency requirements, and often limit what the aliens are permitted to do in the United States.¹³⁶ Nonimmigrant applicants must demonstrate that they are coming for a temporary period¹³⁷ and for a specific purpose,¹³⁸ and must also demonstrate that they qualify for a particular visa by not falling into any of the categories of inadmissibility, which means, for instance, having the proper documents; having no health-related issues that are grounds for barring; having no criminal history (save for certain exceptions); and not being on any list of security and terrorist individuals of concern to the U.S., or being affiliated with terrorist organizations.¹³⁹ Admissibility must be proven at two stages: to the U.S. Department of State (DOS) consular officer, at the time of application for a visa, as well as to immigration inspectors at a port of entry or at the US border, at the time of admission.¹⁴⁰ At both stages, the proper authorities must be satisfied that the individual is entitled to a nonimmigrant status.¹⁴¹

One additional avenue for entry of nonimmigrants is the Visa Waiver Program, which allows nonimmigrants from 36 designated countries to enter without a formal visa for a certain period. In 2009, 16.2 million people entered under the VWP, constituting 50.5% of all temporary visitors and 44.9% of all nonimmigrant admissions.¹⁴² However, Lebanon is not one of the countries under the VWP.¹⁴³

¹³¹ Ruth Ellen Wasem, *U.S. Immigration Policy on Temporary Admissions*, CONGRESSIONAL RESEARCH SERVICE 1, Feb. 28, 2011 available at <http://www.fas.org/sgp/crs/homesecc/RL31381.pdf>

¹³² These nonimmigrant visa categories are defined in §101(a)(15) of the INA. “Major laws amending the INA are the Immigration Amendments of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.” Wasem, *U.S. Immigration Policy on Temporary Admissions*, *supra* note 131, at 1.

¹³³ See *Country Reciprocity Schedule: Lebanon*, U.S. DEPT. OF STATE, http://travel.state.gov/visa/fees/fees_5455.html?cid=9642 (last visited June 24, 2011)

¹³⁴ Wasem, *U.S. Immigration Policy on Temporary Admissions*, *supra* note 131, at 22.

¹³⁵ Wasem, *U.S. Immigration Policy on Temporary Admissions*, *supra* note 131, at 22.

¹³⁶ Wasem, *U.S. Immigration Policy on Temporary Admissions*, *supra* note 131, at 30.

¹³⁷ §214(b) of the INA generally presumes that all aliens seeking admission to the United States are coming to settle permanently; as a result, most foreign nationals seeking to qualify for a nonimmigrant visa must demonstrate that they are not coming to reside permanently. During the period from FY1995 to FY2008, the §214(b) presumption was the most common basis for rejecting a nonimmigrant visa applicant. Wasem, *U.S. Immigration Policy on Temporary Admissions*, *supra* note 131, at 10.

¹³⁸ Wasem, *U.S. Immigration Policy on Temporary Admissions*, *supra* note 131, at 1.

¹³⁹ INA §212(d)(3) - (4).

¹⁴⁰ 22 CFR §41.11(a).

¹⁴¹ 22 CFR §41.11(a).

¹⁴² Wasem, *U.S. Immigration Policy on Temporary Admission*, *supra* note 131, at 5.

¹⁴³ Ruth Ellen Wasem, *U.S. Immigration Policy on Temporary Admissions*, CONGRESSIONAL RESEARCH SERVICE 5, Feb. 28, 2011 available at <http://www.fas.org/sgp/crs/homesecc/RL31381.pdf>

3. *Refugee and Asylee Status*

The United States provides refuge to persons who have been persecuted or have a well-founded fear of persecution by their home governments through two avenues: one for refugees (persons granted protection outside the U.S.) and one for asylees (persons granted protection in the U.S.).¹⁴⁴ The Displaced Persons Act,¹⁴⁵ the first refugee legislation passed by Congress in the nation's history, mandated that the basic refugee processing would take place overseas¹⁴⁶ and the INA provides the President with the authority to designate countries whose nationals may be processed for refugee status within their respective countries, called in-country processing.¹⁴⁷ In 2010, certain nationals of Cuba, the republics of the former Soviet Union, and Iraq were designated for in-country processing.¹⁴⁸

The 1980 Refugee Act¹⁴⁹ mandated the creation of an asylum system to adjudicate claims by asylum seekers already present in the United States who claimed a 'reasonable fear of persecution' at home.¹⁵⁰ The 1967 United Nations Protocol relating to the Status of Refugees (which the United States ratified in 1968) prohibited any nation from returning a refugee to a country where his or her life or freedom would be threatened.¹⁵¹ An individual must meet the definition of a refugee set forth in INA 101(a)(42), now in line with the UN Refugee Convention and 1967 Protocol:¹⁵² "a person who is unable or unwilling to return to his or her country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."¹⁵³

Asylum in the United States may be obtained in two ways: affirmatively through a USCIS asylum officer or defensively in removal proceedings before an immigration judge.¹⁵⁴ To obtain asylum, an alien must apply within one year from the date of last arrival or establish that an exception applies based on changed or extraordinary circumstances.¹⁵⁵ During the interview, an asylum officer or the immigration judge

¹⁴⁴ Daniel C. Martin, *Refugees and Asylees: 2010*, DEPT. OF HOMELAND SECURITY, May 2011, available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2010.pdf

¹⁴⁵ Displaced Persons Act of 1948, Pub. L. No. 80-774, 62 Stat. 1009, as amended by Act of June 16, 1950, Pub. L. No. 81-555, 64 Stat. 219 (expired 1952)

¹⁴⁶ Screening and selection would be done on foreign soil far from the United States and persons would not be authorized to leave for the United States until petitions had been evaluated and approved. The U.S. government continues to strive to have all processing done abroad. The advantages for the United States to use in-country processing as a system for screening refugees are obvious. There is no responsibility to establish refugee camps or to fund programs in a third country. The person seeking refugee status comes to the embassy or consulate and presents the claim, and there is no appeal process through the courts of the United States. Michael J. Churgin, *Mass Exoduses: The Response of the United States*, 30 INT'L MIGRATION REVIEW 310, 313 (1996).

¹⁴⁷ Martin, *supra* note 144.

¹⁴⁸ Martin, *supra* note 144, at 1.

¹⁴⁹ IMMIGRATION AND NATIONALITY ACT, Pub.L. No. 96-212, § 203(e), 94 Stat. 102 (1980) (amending Immigration and Nationality Act, ch. 477, 66 Stat. 163 (1952)) [hereinafter Refugee Act of 1980] (codified as amended at 8 U.S.C. §§ 1101(a)(42)(A) (1988)).

¹⁵⁰ The 1980 law also abandoned the anti-communist refugee definition (definition of a refugee as one fleeing a 'Communist or Communist-dominated country or ... any country within the Middle East' in favor of the UN's criteria. See Marc R. Rosenblum & Idean Salehyan, *Norms and Interests in US Asylum Enforcement*, 41 J. PEACE RESEARCH, 684, 680 (2004).

¹⁵¹ See Martin, *supra* note 144, at 2.

¹⁵² Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 150.

¹⁵³ Immigration and Nationality Act § 101(a)(42). See Martin, *supra* note 144.

¹⁵⁴ See Martin, *supra* note 144, at 4.

¹⁵⁵ An alien applies for asylum in the United States by filing Form I-589, Application for Asylum and for Withholding of Removal. Martin, *supra* note 144, at 4.

determines whether the applicant meets the definition of a refugee, assesses the credibility of the applicant and determines whether there is any bar to obtaining asylum.¹⁵⁶ Individuals may be barred from obtaining asylum for committing certain crimes, posing a national security threat, engaging in persecution of others, or having firmly resettled in another country before coming to the United States.¹⁵⁷

4. *Temporary Protected Status*

Temporary Protected Status (TPS) provides a temporary safe-haven to individuals in the United States from countries suffering from natural disasters, armed conflict or other troubles.¹⁵⁸ Created in 1990, TPS is “the statutory embodiment of safe haven for those aliens who may not meet the legal definition of refugee but are nonetheless fleeing—or reluctant to return to—potentially dangerous situations.”¹⁵⁹ Filling a gap in U.S. law, the status is a temporary form of blanket relief that may be granted if there is an ongoing armed conflict posing serious threat to personal safety, a foreign state requests TPS because it temporarily cannot handle the return of nationals due to environmental disaster, or there are extraordinary and temporary conditions in a foreign state that prevent aliens from returning.¹⁶⁰ Unlike asylum, TPS is not a path to residency or citizenship.

In order to obtain TPS, eligible aliens report to USCIS, pay a processing fee and receive registration documents and work authorization. The major requirements include a passport issued by the designated country, continuous physical presence in the United States since the date the TPS went into effect, timely registration and being otherwise admissible as an immigrant.¹⁶¹ TPS has in the past been given to nationals of Kuwait, Lebanon, Liberia, Somalia, Rwanda, and Bosnia, among others.¹⁶² In each of these instances, the number of people who were physically present in the United States by a certain date and who qualified was small.¹⁶³

IV. ANALYSIS

American immigration policy toward Lebanon has shifted focus since 1975 in tandem with the shifts that we described in our above analysis. Policy makers operating under the framework of the rivalries of the Cold War period did not concern themselves with Lebanese migrants in particular, although they relented toward the end of the conflict in Lebanon. Instead, with the priority accorded to fighting communism through proxy wars was reflected in American immigration policy. The end of the Cold War and the first phase of globalization saw the United States shift towards using its immigration policy as a foreign policy tool through humanitarian relief and sovereignty promotion. In the second phase of increased security

¹⁵⁶ Martin, *supra* note 144, at 4.

¹⁵⁷ Martin, *supra* note 144, at 4.

¹⁵⁸ Rosemary E. Jenks, *Special Feature: Immigration and Nationality Policies of Leading Migration Nations*, 14 POPULATION AND ENVIRONMENT 567, 581, (1993).

¹⁵⁹ Ruth Ellen Wasem & Karma Ester, *Temporary Protected Status: Current Immigration Policy and Issues*, CONGRESSIONAL RESEARCH SERVICE 3, September 18, 2008

¹⁶⁰ Provided that granting TPS is consistent with U.S. national interests. Wasem & Ester, *supra* note 159, at 3.

¹⁶¹ U.S. DEPT. OF STATE, *Temporary Protected Status: Current Immigration Policy and Issues*, Nov. 4, 2004, available at <http://www.sununu.senate.gov/pressapp/record.cfm?id=260298&&year=2006&>.

¹⁶² Michael J. Churgin, *supra* note 146, at 320.

¹⁶³ Michael J. Churgin, *supra* note 146, at 320.

concerns after 9/11, both American immigration and foreign policy are infused with a war on terror mindset. Unfortunately, the security concerns that result in the stringent treatment of citizens of other, suspect countries, U.S. immigration policies in the war on terror may undermine multilateral efforts relating to overall U.S. foreign policy. This is especially true as 9/11 and the Iraq war recedes, and new issues that require outreach come to the fore following the Arab Spring.¹⁶⁴

Political turmoil in Lebanon and economic opportunity in the U.S. have continued to draw new immigrants to the United States. The most significant recent wave of immigration from Lebanon was precipitated by the Lebanese Civil War in 1975. Between the years of 1983 and 1990, just after the war's peak, over 30,000 immigrants came to Detroit directly from Lebanon.¹⁶⁵ Another ten thousand Lebanese arrived from Africa, Canada, and Europe.¹⁶⁶ From 1980 to 1990, the Lebanese population in the U.S. grew by over 100,000 people.¹⁶⁷ In 1990, two-fifths of Arab-Americans were of Lebanese origin and 75% of the Lebanese were born in the United States, a testament to their century-long presence in the US.¹⁶⁸ In 2000, 37% of all Arab-Americans in the United States were Lebanese, making Lebanon the number one nation of origin for Arab immigrants.¹⁶⁹

A. *Cold War Power Politics: The Lebanese Civil War, 1975 to 1990*

The ongoing fighting in Lebanon during the civil war period from 1975 to 1990 is obviously the main driver of the heavy migration during that time, as the prospect of a seemingly endless war is in itself a sufficient reason to leave.¹⁷⁰ Other factors include advances in transportation and communication technology, which, by creating real time communication at cheaper and cheaper prices, facilitated interactions within transnational networks between these migrant communities in the U.S. and family members in Lebanon, and have made the migratory process easier for prospective migrants.¹⁷¹ Many Lebanese have close family in the United States as a result of small but steady migration since the late nineteenth century, allowing them to apply for family preference immigrant visas.¹⁷² The following table outlines the number of Lebanese nationals admitted for permanent admission to the United States alongside the events in Lebanon during the years for which data is available.

¹⁶⁴ Kevin R. Johnson & Bernard Trujillo, *Immigration Reform, National Security After September 11, and the Future of North American Integration*, 91, MINN. L. REV. 1369, 1376 (2007).

¹⁶⁵ Sally Howell & Andrew Shryock, *Cracking Down on Disapora: Arab Detroit and America's "War on Terror,"* 76 ANTHROPOLOGICAL QUARTERLY 443, 446 (2003).

¹⁶⁶ Howell & Shryock, *supra* note 165, at 446.

¹⁶⁷ Andrzej Kulczycki & Arun Peter Lobo, *Deepening the Melting Pot: Arab-Americans at the Turn of the Century*, 55 MIDDLE EAST J. 459, 464 (2001).

¹⁶⁸ Kulczycki & Lobo, *supra* note 167, at 463.

¹⁶⁹ Because Arab Americans are officially considered Caucasian or White by the U.S. government, they are represented as a distinct group on the census only through the optional ancestry question, therefore these statistics are approximate. See Kristine J. Ajrouch, *Place, Age, and Culture: Community Living and Ethnic Identity Among Lebanese American Adolescents*, SMALL RESEARCH GROUP 451 (2000), available at <http://sgr.sagepub.com/cgi/content/abstract/31/4/447>; PARRILLO, *supra* note 111, at 317.

¹⁷⁰ Boutros Labaki, *Lebanese Emigration During the War (1975-1989)*, THE LEBANESE IN THE WORLD: A CENTURY OF EMIGRATION 606, CENTRE FOR LEBANESE STUDIES, (1992).

¹⁷¹ GUITA HOURANI, *Emigration, Remigration, Evacuation*, LEBANESE EMIGRATION RESEARCH CENTER, 34 (Notre Dame University 2006).

¹⁷² Askari & Cummings, *supra* note 120, at 69.

Table 1: Events in Lebanon and Lebanese LPR Admissions

Year	LPR Admissions	Events in Lebanon
1973	1,977	Pre-War period
1975-1980	24,691 (about 4,000/year)	Civil War begins
1983	3,015	Terrorist attacks against U.S. forces in Lebanon
1984	N/A	Terrorist attacks against U.S. forces in Lebanon; U.S. Withdrawal
1987	4,367	Civil War
1988	4,910	Civil War
1989	5,716	Civil War
1990	5,634	War Ends

In 1973, two years before the civil war started, Lebanese immigrant admissions were at 1,977.¹⁷³ Admissions stood at an average of 2,000 Lebanese immigrants a year until 1977 when 5,685 were granted immigrant visas.¹⁷⁴ From 1975 to 1980, permanent admissions¹⁷⁵ from Lebanon totaled 24,691, a little over 4,000 admissions per year, more than doubling the totals recorded in 1973.¹⁷⁶ A survey of Lebanese applications for emigration to the United States, conducted in 1981 -1982 found that 48.7 % stated that the main reason for leaving was to join their families.¹⁷⁷ A significant proportion of those who immigrated tended to be more educated and more prosperous, making it easier to obtain work visas. Others came from the villages or rural areas of Lebanon.¹⁷⁸ During the war, many Lebanese also came to the United States by means of a visitor's visa.¹⁷⁹ American immigration officials stated that they would not deport the Lebanese, granting them 6-month renewable visas and opportunities for work.¹⁸⁰ Students accounted for 40 percent of the total number of Lebanese entering the country before 1970.¹⁸¹ But by 1980, it was less than 10 percent.¹⁸² In 1981 and 1982, 90 percent of applications for US visas were made by traders, and white collar and skilled workers.¹⁸³ More Lebanese nationals were applying and accepted for family based and work visas, which correlates with American fears of Lebanon going communist and broader efforts to “woo” Lebanon away from Syrian and communist influence.

¹⁷³ Askari & Cummings, *supra* note 120, at 67 (citing United States, Immigration and Naturalization Service, Annual Report of the Commissioner, Washington, D.C.).

¹⁷⁴ Naff, *supra* note 3, at 162

¹⁷⁵ This number also includes refugees and asylees admitted as LPRs. Data separating the categories during this time is difficult to obtain.

¹⁷⁶ Bernt Bratsberg, *Legal versus Illegal U. S. Immigration and Source Country Characteristics*, 61 SOUTHERN ECONOMIC J. 715, 717 (1995).

¹⁷⁷ Labaki, *supra* note 170, at 623 (citing Dr. Huda Zreik, *The decision Making for Provisional or Permanent Emigration from Lebanon*, AL MUSTAKBAL AL ARABI 98-101 (Am. University of Beirut 1981)).

¹⁷⁸ Ajrouch, *supra* note 169, at 452.

¹⁷⁹ The admissions data used throughout this paper simply enumerate port of entry inspections, thus counting frequent travelers multiple times. There is not yet an exit registration system in place. Thus, the level of net migration of nonimmigrants (or the exact number of nonimmigrants in the United States at a given time) is unknown. Wasem, *U.S. Immigration Policy on Temporary Admission*, *supra* note 131, at 12.

¹⁸⁰ Barbara C. Aswad, *The Lebanese Muslim Community in Dearborn, Michigan*, *The Lebanese in the World: A Century of Emigration*, 169, CENTRE FOR LEBANESE STUDIES, (1992).

¹⁸¹ Labaki, *supra* note 170, at 625.

¹⁸² Labaki, *supra* note 170, at 625.

¹⁸³ Labaki, *supra* note 170, at 625 (citing Nabih Kanaan Atallah, *L'emigration libanaise au U.S.A.*, PANORAMA DE L'ACTUALITE).

After this initial five-year period during the war, admissions declined in 1983 to 3,015 admissions,¹⁸⁴ coinciding with the withdrawal of American forces from Lebanon after the bombing at the U.S. Embassy in Beirut in April 1983 and a bombing at the U.S. Marine barracks in October 1983.¹⁸⁵ Despite the drop in admissions, the number of immigrants from Lebanon from in the ten years between 1978 to 1988 amounted to over half of the total immigration to America from Lebanon since World War II.¹⁸⁶ In Lebanon, the situation was quickly deteriorating not only politically but also economically, with a sharp drop in GDP, the drastic fall of the Lebanese pound and the subsequent deterioration of monthly salaries.¹⁸⁷ Yet Lebanese migrants cited the war rather than economic hardship as the primary reason for leaving Lebanon, especially as economic opportunities were diminishing in the United States as the nation entered a major recession in the 1980-1983 period.¹⁸⁸ A large percentage most likely planned to wait out the uncertain end of the war in the United States,¹⁸⁹ as fighting continued in these years, and even broke out again in March 1989.¹⁹⁰ Toward the end of the war, Lebanese immigrant admissions soared to over 5,500 admissions in 1988,¹⁹¹ 1989 and 1990, then reached its peak once the war was over at 6,015 admissions in 1991.¹⁹² From the standpoint of the cold war framework, the flight of Lebanese nationals articulated discontent with the Soviet ally, Syria. The situation of war and the Syrian occupation accelerated the displacement of Lebanese out of the country, rather than drawing them back to the country.

Table 2: Events in Lebanon and Lebanese LPR Admission in 1996, 1997, and 2000

Year	LPR Admissions	Events in Lebanon
1996	4,382	Ceasefire Agreement
1997	3,568	Hezbollah Designated as a FTO
2000	3,662	Israel Withdraws from Lebanon

The most surprising property of the outflow of Lebanese is in the statistics on refugee and asylum seeker determinations. Some believe that broader policy goals have influenced American asylum policy in recent decades, with military aid and diplomatic sanctions helping to explain asylum enforcement between 1983 and 1992.¹⁹³ American asylum policy favored applicants from its Cold War adversaries, while denying more claims from countries with which the United States had military ties and positive diplomatic relations during the Cold War.¹⁹⁴ For instance, the U.S. denied asylum seekers from Guatemala in the 1980s, even though the military regime committed atrocities, because it was allied with Guatemala, and admitted asylum seekers from Cuba, because it was opposed to Cuba. Asylum statistics during the Lebanese civil war period

¹⁸⁴ Ellen Percy Kraly & Robert Warren, *Long-Term Immigration to the United States: New Approaches to Measurement*, 25 INT'L MIGRATION REV. 60, 85 (1991).

¹⁸⁵ Addis, *supra* note 9, at 2.

¹⁸⁶ 43,610 people immigrated to the United States from Lebanon during this period. Naff, *supra* note 3, at 162.

¹⁸⁷ Monthly salaries declined drastically from US\$280 at the end of 1983 to US\$27 in 1987. The GDP declined from L£8.1 billion to L£ 5 billion between 1974 and 1983. Labaki, *supra* note 170, at 607.

¹⁸⁸ Ajrouch, *supra* note 169, at 452.

¹⁸⁹ Naff, *supra* note 3, at 162.

¹⁹⁰ Labaki, *supra* note 170, at 609.

¹⁹¹ Naff, *supra* note 3, at 162.

¹⁹² U.S. DEPT. OF JUSTICE, *1999 Statistical Yearbook of the Immigration and Naturalization Service* 25, Mar. 2002, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/1999/FY99Yearbook.pdf>

¹⁹³ Rosenblum & Salehyan, *supra* note 150, at 692.

¹⁹⁴ Rosenblum & Salehyan, *supra* note 150, at 692.

have been difficult to procure. The numbers admitted as refugees is negligible “since theoretically that classification does not apply to Lebanese.”¹⁹⁵ From 1971 to 1980, 595 Lebanese nationals were approved for either refugee or asylee status.¹⁹⁶ This seems low for a country during a period absorbed in civil strife.¹⁹⁷ In one report, the American government deemed statistics from 1981 to 1990 as not available,¹⁹⁸ although other yearbooks reported that there were only 29 approvals in 1988, which then radically jumped to 116 approvals in 1989.¹⁹⁹

In 1987, the United States Supreme Court announced that the standard which had been applied in asylum adjudication was too restrictive - “well-founded fear” did not equate with the clear probability standard for *non-refoulement*.²⁰⁰ This brought about an important distinction between the American asylum system and the internationally accepted standard of non-refoulement discussed in multiple UN Conventions, which maintained its place under the system of withholding from removal.

Despite the loosening of asylum restrictions, the outcome of most cases stayed the same.²⁰¹ Adjudicators seemed to be using one standard for those fleeing countries with close relations to the United States and another for those fleeing unfriendly nations.²⁰² Case studies confirm that the United States regularly accepted applicants from adversarial governments in Hungary, Cuba, Iran, and Vietnam, while rejecting applicants fleeing similar humanitarian conditions in friendly states such as Guatemala, El Salvador, and Haiti.²⁰³ As part of the settlement agreement involving a class action alleging that the United States government discriminated against nationals of El Salvador and Guatemala in the adjudication of asylum applications, the United States admitted that “foreign policy and border enforcement considerations are not relevant to the [asylum] determination.”²⁰⁴ Lebanese asylum was equally affected by political concerns. In 1988, for example, the US only accepted 29 asylum and refugee claims from Lebanese citizens.²⁰⁵ The number of approvals quadrupled in the year following the Supreme Court decision, perhaps reflecting administrative y changes that were thence brought about in the asylum system.²⁰⁶ From 1991 to 1999 after

¹⁹⁵ Naff, *supra* note 3, at 163.

¹⁹⁶ 1999 *Statistical Yearbook*, *supra* note 192, at 110.

¹⁹⁷ The Australian government, in light of the renewal of fighting in Lebanon, facilitated Lebanese entry to Australia under a new, special arrangement, which included priority processing of family migration sponsorships, waiving of two year residence requirement for such sponsorships and extension of visitor visas. Further extensions were made, in light of the continuing conflict, during 1984. Barry York, *Australia and Refugees, 1901–2002: An Annotated Chronology Based on Official Sources*, INFORMATION AND RESEARCH SERVICES 30, June 16, 2003, available at <http://www.aph.gov.au/library/pubs/online/03chr02.pdf>.

¹⁹⁸ 1999 *Statistical Yearbook*, *supra* note 192, at 110.

¹⁹⁹ IMMIGRATION AND NATURALIZATION SERVICE, 1997 *Statistical Yearbook of the Immigration and Naturalization Service*, U.S. DEPT. OF JUSTICE 96, Oct. 1999, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/1997YB.pdf>. (hereinafter 1997 *Statistical Yearbook*).

²⁰⁰ *INS v. Cardoza-Fonseca*, 480 U.S. 421,439-440 (1987).

²⁰¹ Churgin, *supra* note 146, at 319.

²⁰² Churgin, *supra* note 146, at 319.

²⁰³ Rosenblum & Salehyan, *supra* note 150, at 680. In North America, hardly any Salvadorians were accepted in the United States until changes in U.S. legislation, while Salvadorians had high acceptance rates during the same period in Canada. Howard Adelman, *Refugee Determination*, 11 REFUGE 8, 8 (1991).

²⁰⁴ *American Baptist Churches v. Thornburgh*, 780 F. Supp. 796, 799 (N.D. Cal. 1991).

²⁰⁵ 1997 *Statistical Yearbook*, *supra* note 199, at 96.

²⁰⁶ In 1989, 116 people were granted asylum or refugee status from Lebanon. 1997 *Statistical Yearbook*, *supra* note 199, AT 96. *American Baptist Churches v. Thornburgh*, 780 F. Supp. 796, 799 (N.D. Cal. 1991).

the civil war period, asylum and refugee grants totaled 998 approvals, roughly more than 100 approvals each year.²⁰⁷

In all, the civil war in Lebanon resulted in the deaths of 50,000 people and displaced about 60,000 Lebanese.²⁰⁸ The above statistics demonstrate that all immigration to the United States from Lebanon was steady during the civil war period, but jumped dramatically in all categories toward the end of the war. This contrasts sharply with other refugee host countries with their admissions of Lebanese migrants. For comparison sake, in the first half of 1976, more than 800 Lebanese were admitted to Australia as refugees, the flow continuing with the worsening war and by 1981 the Lebanon-born community has increased by more than 16,000.²⁰⁹ Whether or not the much larger influx of Lebanese migrants towards the end of the war is a result of the formal policy change, some cold war political maneuver, or simply more Lebanese attempting to come to the United States towards the end of hostilities, is unclear. American political influence was waning in relation to Syrian influence during this period, but it is clear that more Lebanese were allowed to pursue economic opportunities and reunite with family in the United States than ever before in recent history.

B. *Humanitarian and Sovereignty Concerns, 1991 to 2000*

In the period at the end of the Cold War and the negotiated resolution of the Lebanese civil war, the Western states began to become more proactive on behalf of the rights of refugees.²¹⁰ Specifically, the American government amended the INA in 1991 and 1992 to expedite the issuance of second preference visas to Lebanese nationals, which allowed immigrant visas to become immediately available for spouses and unmarried sons and unmarried daughters of permanent resident aliens.²¹¹ As a result of this change, these two years saw the highest levels of Lebanese permanent residence in recent history, totaling 11,847 admissions.²¹² In 1991, 318 Lebanese were admitted as refugees and asylum seekers, the highest level ever.²¹³ Humanitarian concerns in 1991 also led to the designation and extension of Temporary Protected Status to Lebanese nationals in the United States. Lebanese nationals could request TPS from March 27, 1991 to April 9, 1993.²¹⁴ The underlying political goals were twofold, for not only did this provide humanitarian assistance to the overwhelming number of Lebanese applicants in recognition of Lebanon's problems, but it also embarrassed Syria for its continued occupation. The change in category and the number of asylum seekers was meant to indicate that Syria's occupation was a hostile act, undertaken not to protect the Lebanese, but to oppress them – not as a response to the Lebanese popular will, but in contravention of it. This was the

²⁰⁷ 1999 *Statistical Yearbook*, *supra* note 192, at 96.

²⁰⁸ York, *supra* note 197, at 17.

²⁰⁹ York, *supra* note 197, at 17.

²¹⁰ Adelman, *supra* note 203, at 8.

²¹¹ Section 155 of Pub.L. 101-649, as amended Pub.L. 102-232, Title III, § 302(d)(5), Dec. 12, 1991, 105 Stat.1745. The amendment also provided for expedited visas for Lebanese nationals under the 5th preference category, INA 203(a)(5), which no longer exists in the code. The 5th preference category is now the 4th preference category, which includes brothers and sisters of US citizens.

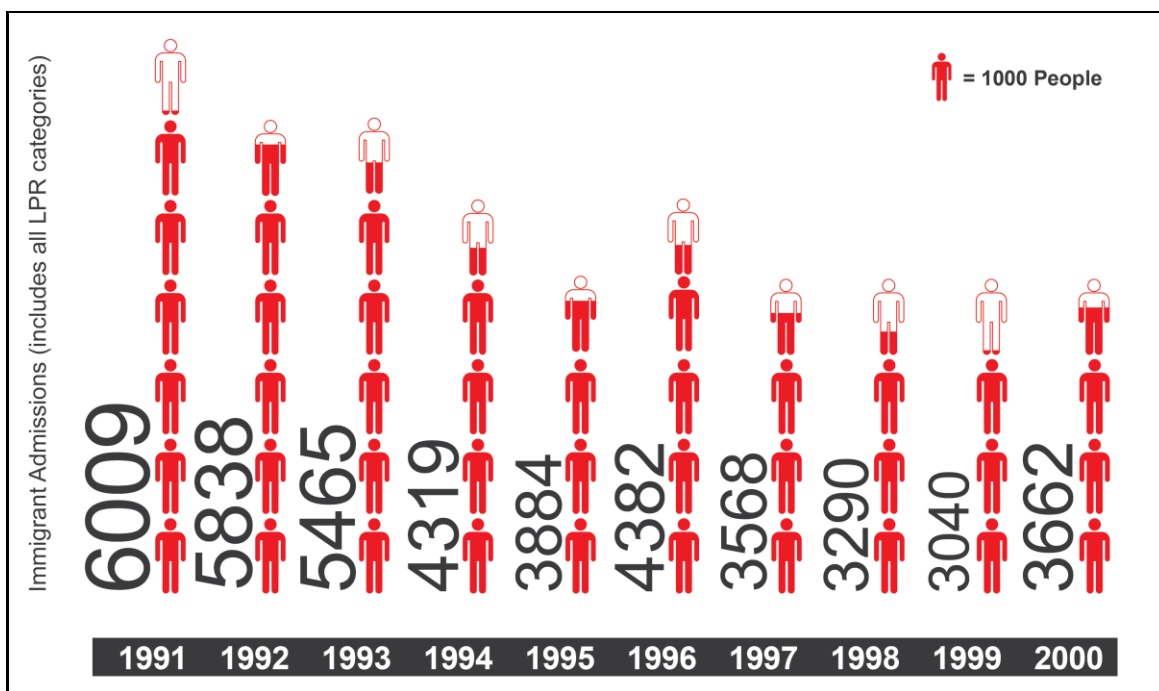
²¹² This figure also includes asylees and refugees given LPR status. 1999 *Statistical Yearbook*, *supra* note 192, at 25.

²¹³ 1999 *Statistical Yearbook*, *supra* note 192, at 25.

²¹⁴ The author has been unable to obtain statistics on how many Lebanese benefited from TPS status. The public has little information about how many aliens have registered for TPS and what happens to them when the TPS designation ends. Joan Fitzpatrick, *Flight from Asylum: Trends Toward Temporary "Refuge" and Local Responses to Forced Migrations*, 35 VA. J. INT'L 13, fn. 169 (1994).

logic of the turn in American immigration policy which in effected accepted more refugees when Lebanon was officially at peace than when it was at war.²¹⁵ The United States granted some economic assistance and small amounts of military aid to Lebanon during this time, but overall Lebanon’s welfare was lower on the list of Washington’s priorities than embarrassing Syria.²¹⁶

Graph 1: Lebanese Immigrant Admissions 1991-2000²¹⁷



Some scholars believe commercial relations and the level of undocumented immigrants also help explain U.S. asylum grants between 1993 and 1998.²¹⁸ Those countries with which the United States had trading relationships had a proportionally lower number of asylum and refugee grants. During this time, Lebanon and American commercial relations were practically nonexistent, but the number of Lebanese nationals granted asylum varied throughout the period, as shown in the graph below.

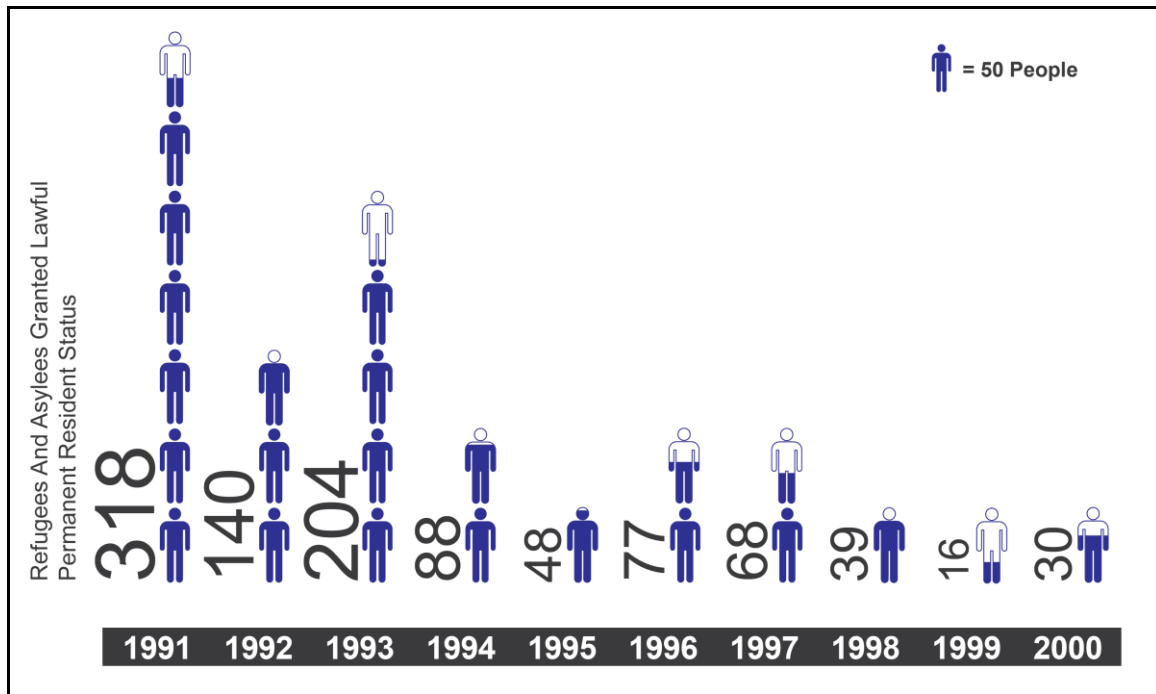
²¹⁵ For a discussion of previous U.S. policy of favoring immigrant countries with whom the U.S. has poor relations, see Rosenblum & Salehyan, *supra* note 150, at 680.

²¹⁶ Edelman & Karlin, *supra* note 13.

²¹⁷ 1999 *Statistical Yearbook*, *supra* note 192, at 25. Statistics compiled from the *Yearbook* into graph form by the author.

²¹⁸ Rosenblum & Salehyan, *supra* note 150, at 692.

Graph 2: Lebanese nationals granted asylum or refugee status, from 1991 to 2000²¹⁹



Something besides commercial relations may explain the changes. After a few years, regulatory changes that were implemented in 1996 limited the right to appeal asylum rulings.²²⁰ Lebanese immigrant admissions since 1993 kept falling until 1995, and that year also saw a sharp decline in Lebanese nationals granted asylum and refugee status, falling by almost half the claims approved the previous year.²²¹ Soon after, the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) established a time limit for new applications, imposed broader asylum detention provisions, and expedited the removal of rejected applicants.²²² In 1999, Lebanese immigrant admissions fell to early civil war levels, the lowest yearly number in over 10 years;²²³ at the same time, the number of Lebanese nationals granted asylum also fell to a ten year low, with only sixteen people from Lebanon granted asylum or refugee status.²²⁴ Months later, Israel withdrew from Lebanon and Hezbollah, which had newly been designated terrorist organization, experienced an upsurge in popularity within the country.

C. *The War on Terror, 9/11, and Democracy Promotion: 2001 to 2011*

²¹⁹ 2009 Yearbook, *infra* note 223, at 115. Graph compiled from statistics in Yearbook by author.

²²⁰ Rosenblum & Salehyan, *supra* note 150, at 684.

²²¹ 1999 Statistical Yearbook, *supra* note 192, at 115.

²²² Rosenblum & Salehyan, *supra* note 12, at 684.

²²³ OFFICE OF IMMIGRATION STATISTICS, 2009 Yearbook of Immigration Statistics, DEPT. OF HOMELAND SECURITY 25, Aug. 2010, available at http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2009/ois_yb_2009.pdf (hereinafter 2009 Yearbook).

²²⁴ 2009 Yearbook, *supra* note 223, at 45.

The event that had the most impact on U.S. immigration policy toward Lebanon, however, did not take place on Lebanese soil. Not surprisingly, the terrorist attacks in the U.S. on September 11, 2001 changed immigration policy toward the Middle Eastern countries. In part, the U.S. government directed security measures at noncitizens because noncitizens perpetrated the terrorist acts of September 11.²²⁵ Since then, immigrants have disproportionately borne the burden of restricted civil liberties, especially in terms of admittance to the United States.²²⁶ The Bush administration terrorism policy, designed to prevent other terrorist attacks, has dramatically altered the way people who seek to enter the United States are treated.²²⁷ The transfer of authority to the newly created Department of Homeland Security communicates a view that immigrants, including refugees and asylum seekers, bear the presumption of being security risks.²²⁸

The suburb of Dearborn, MI, has the largest Arab population in the United States, with more than 250,000 Arab Americans, giving that area one of the largest concentrations of Arabs outside the Middle East.²²⁹ The city was also the first American city to have its own office of Homeland Security, an honor it owes to the number of its Arab/Muslim residents.²³⁰ The U.S. Border Patrol in Michigan uses "unannounced, rotating checkpoints" to search automobiles for illegal aliens, drugs, and terrorists.²³¹ Such policies were also implemented at the national level. Despite the government's refusal to disclose names of who it was detaining and the reasons for the detention during its 9/11 investigations, evidence of large numbers of detainees—mainly Middle Eastern and South Asian men—came to light quickly as reports of immigration raids on local mosques and businesses owned by Arab Americans and Asian Americans poured in from across the nation.²³²

Coincidentally, 2001 also saw a spike in the number of Lebanese obtaining LPR status, jumping 917 admissions from the previous year.²³³ Important events in Lebanon during this time include Israel's withdrawal from Lebanon and the U.S. government designating Hezbollah as a Specially Designated Global Terrorist organization. 2004 also saw a sharp increase in Lebanese nationals admitted as LPRs in the United States, resulting in 862 more admissions.²³⁴ U.S. policy toward Syrian presence grew more aggressive and outspoken in 2004 as well, and pressure continued to be put on Syria in 2005 and then again in 2007, marking the period of the war with Israel, although 2006 saw a small decline in immigrant admissions.²³⁵ The war killed 2,023 people, injured 3,740 and displaced about one million.²³⁶ According to some estimates,

²²⁵ See Nat'l Comm'n on Terrorist Acts upon the U.S., *The 9/11 Commission Report* 145-253 (2004) [hereinafter *9/11 Commission Report*] (outlining the background behind, as well as the various persons involved in, the September 11 plot).

²²⁶ Karen C. Tumlin, *Suspect First: How Terrorism Policy is Reshaping Immigration Policy*, 91 CAL. L. R. 1173, 1176 (2004).

²²⁷ Tumlin, *supra* note 226, at 1177.

²²⁸ Tumlin, *supra* note 226, at 1179.

²²⁹ PARRILLO, *supra* note 1, at 316.

²³⁰ Howell & Shryock, *supra* note 165, at 446. The first months after the 9/11 attacks were a time of hate crimes and intimidation, but a simultaneous desire to "understand" and "protect" Arabs and Muslims flourished in America. The federal government quickly released statements (six coming before September 15, 2001) designed to abate the potential persecution of Muslim Americans: "Any threats of violence or discrimination against Arab or Muslim Americans or Americans of South Asian descent are not just wrong and un-American, but also are unlawful and will be treated as such." U.S. Department of Justice Memorandum 01-468, September 13, 2001. See Howell & Shryock, *supra* note 165, at 446.

²³¹ Howell & Shryock, *supra* note 165, at 450.

²³² Tumlin, *supra* note 226, at 1197.

²³³ 2009 *Yearbook*, *supra* note 223, at 13.

²³⁴ 2009 *Yearbook*, *supra* note 223, at 13.

²³⁵ 2009 *Yearbook*, *supra* note 223, at 13.

²³⁶ HOURANI, *supra* note 171 at 34.

around 230,000 people left Lebanon.²³⁷ The war reminded many Lebanese migrants of the fear of living through the civil war period and as a result, many migrated.²³⁸ Symbolically, the airport was the first target of Israeli bombing, rendering departure by air in Lebanon no longer an option.²³⁹

Most of the foreign nationals in Lebanon during the war were Lebanese with dual citizenship, either visiting the country temporarily or having returned permanently.²⁴⁰ Huge numbers of foreign nationals presented themselves to their respective embassies in Lebanon during the summer 2006 War, including a considerable number of Lebanese-Americans who found themselves asking for help from the US Embassy as the U.S. officially encouraged the Israeli incursion.²⁴¹ Prior to the evacuations, embassies made official announcements explaining the process to their nationals, including where to assemble for registration, the documents they would need and how much luggage they would be allowed to take with them.²⁴² The American Embassy assisted in the departure of approximately 15,000 Americans from Lebanon.²⁴³

The U.S. continued its pattern of using immigrant admissions as a foreign policy incentive to shame its enemies and reward its friends. In 2007, President Bush issued a proclamation in line with the administration's commitment to its policy to promote democracy and sovereignty in Lebanon during that time.²⁴⁴ The proclamation declares

[I]t is in the interest of the United States to restrict the international travel, and to suspend the entry into the United States, as immigrants or nonimmigrants, of aliens who deliberately undermine or harm Lebanon's sovereignty, its legitimate government, or its democratic institutions, contribute to the breakdown in the rule of law in Lebanon, or benefit from policies or actions that do so, including through the sponsorship of terrorism, politically motivated violence and intimidation, or the reassertion of Syrian control in Lebanon.²⁴⁵

In the same year as this proclamation, immigrant admissions from Lebanon rose slightly.²⁴⁶

There are a number of specific statutory grounds for inadmissibility, but all are generally directed at excluding people who are believed to pose some type of threat (to health, safety, security or economic well being) to the American public.²⁴⁷ The weighing of the security threat has been prominent in recent years, and been used to exclude anyone accused of being associated with a terrorist group. This prohibits entry into

²³⁷ HOURANI, *supra* note 171 at 33.

²³⁸ HOURANI, *supra* note 171 at 35.

²³⁹ HOURANI, *supra* note 171 at 39.

²⁴⁰ HOURANI, *supra* note 171 at 39.

²⁴¹ HOURANI, *supra* note 171 at 35.

²⁴² HOURANI, *supra* note 171 at 41.

²⁴³ U.S. DEPT. OF STATE, *Lebanon Situation Update*, Aug. 2, 2006, available at <http://www.state.gov/r/pa/ps/2006/69225.htm>.

²⁴⁴ Proclamation 8158, *Suspension of Entry as Immigrants and Nonimmigrants of Persons Responsible for Policies and Actions That Threaten Lebanon's Sovereignty and Democracy*, June 28, 2007, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=75511#axzz1QB7vSeRL>

²⁴⁵ Proclamation 8158, *supra* note 244.

²⁴⁶ In 2007, 184 more individuals from Lebanon obtained LPR status in the United States. *2009 Yearbook*, *supra* note 223, at 13.

²⁴⁷ Jill D. Moore, *ABCs of Immigration Law and Policy*, POPULAR GOVERNMENT 19 (1999) available at <http://sogpubs.unc.edu/electronicversions/pg/f99-1821.pdf>

the United States of those associated with Hezbollah and authorizes deportation of anyone so associated.²⁴⁸ Terrorism prevention has imposed U.S. foreign policy objectives in a very big way on immigration policy.

Since 2005, Lebanese LPR admissions have remained relatively stable. Lebanon was ranked 49th in terms of Lebanese LPR admissions in 2008, totaling 4,254.²⁴⁹ Immediate relatives of U.S. citizens and family sponsored visas accounted for 77% of overall legal permanent resident admissions in 2008.²⁵⁰ In 2010, LPR admissions fell to 3,487,²⁵¹ representing the lowest levels, aside from 1999,²⁵² since the civil war period.²⁵³ Immediate relatives and family sponsored visas remained the largest category of overall admissions at 79%.²⁵⁴

Table 3: Events in Lebanon from 2001 to 2011

Year	Events in Lebanon
2001	9/11; Hezbollah named Specially Designated Global Terrorist
2003	U.S. Rhetoric toward occupying Syrian more outspoken
2005	Rafik Hariri assassinated; Cedar revolution; Syrian withdrawal
2006	War with Israel; Ceasefire; STL
2007	Hezbollah popularity grows in Lebanon; Hezbollah strikes, toppling the government
2008	Agreement ends the stalemate
2009	Pro-U.S. government wins election
2010	Iranian President visits Lebanon; U.S. fears governmental change
2011	Indictments of the STL issued; Change of government from Pro-West to March 8 th ; Arab Spring

²⁴⁸ Addis & Blanchard, *supra* note 31, at 23. The USA PATRIOT Act (P.L. 107-56) was a broad antiterrorism measure that included several important changes to immigration law, including specific visa policy matters. Foremost among these changes were those expanding the definition of terrorism and the designation of terrorist organizations used to determine the inadmissibility and removal of aliens. The act further sought to improve the visa issuance process by mandating data sharing so that consular officers have access to relevant electronic information. These provisions authorized the Attorney General to share data from domestic criminal record databases with the Secretary of State for the purpose of adjudicating visa applications. Ruth Ellen Wasem, *Visa Issuances: Policy, Issues, and Legislation*, CONGRESSIONAL RESEARCH SERVICE, Jan. 24, 2008 available at http://assets.opencrs.com/rpts/RL31512_20080124.pdf

²⁴⁹ Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CONGRESSIONAL RESEARCH SERVICE 22, Apr. 1, 2010, available at <http://fpc.state.gov/documents/organization/141589.pdf>

²⁵⁰ *Id.*

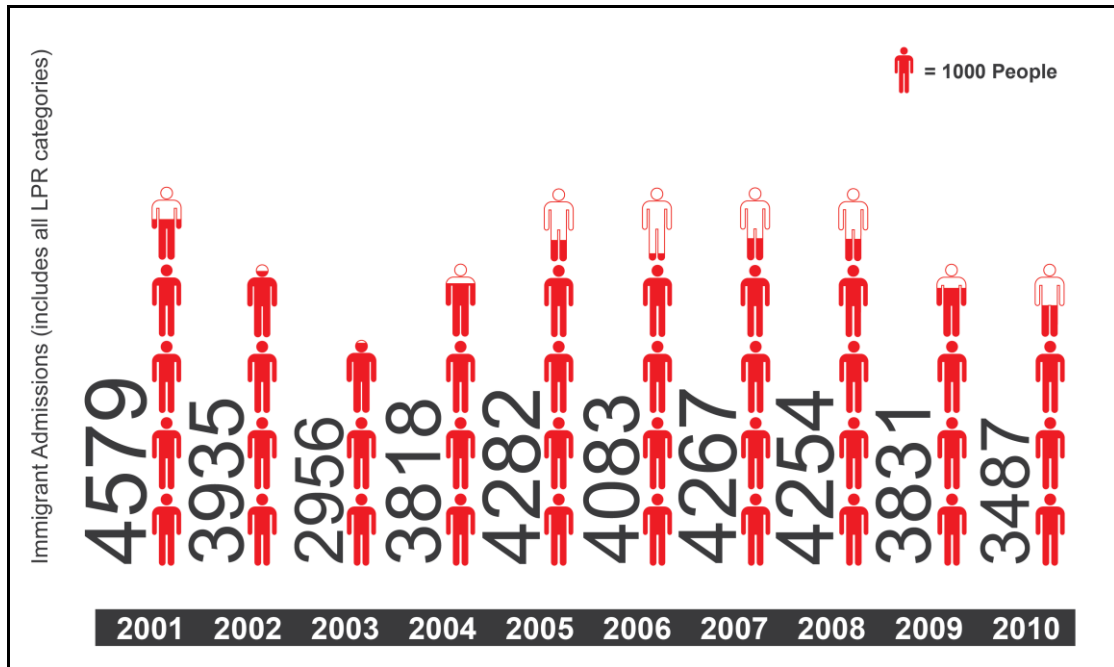
²⁵¹ DEPT. OF HOMELAND SECURITY, *Yearbook of Immigration Statistics: 2010 Table 3: Persons obtaining legal permanent resident status by region and country of birth: Fiscal Years 2001-2010*, available at <http://www.dhs.gov/files/statistics/publications/LPR10.shtm>.

²⁵² In 1999, LPR admissions totaled 3,290 Lebanese nationals. *1999 Statistical Yearbook*, *supra* note 192, at 25.

²⁵³ See Kraly & Warren, *supra* note 184, at 85.

²⁵⁴ DEPT. OF HOMELAND SECURITY, *Yearbook of Immigration Statistics: 2010 Table 10: Persons obtaining legal permanent resident status by broad class of admission and region and country of birth: fiscal year 2010*, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2010/table10d.xls> (last modified Mar. 30, 2011).

Graph 3: Lebanese Immigrant Admissions, from 2001 to 2011²⁵⁵



The most affected category of admissions, however, was nonimmigrant travelers. Because this visa category is for temporary visits, rather than long term migration, these statistics have less importance in explaining Lebanese migration to the United States with respect to the events in Lebanon. This area of US migration law has been more deeply affected by the security turn in the United States after 9/11, which was, after all, an attack conducted by foreign nationals admitted to the United States on temporary visas.²⁵⁶ Although visa policy itself did not significantly change after 9/11, the security screening procedures that are part of the visa application process were standardized and intensified.²⁵⁷ Several new security procedures related to visa issuance and border entry were introduced.²⁵⁸ The Enhanced Border Security and Visa Entry Reform Act²⁵⁹ mandated that no nonimmigrant visa should be issued to any alien from a country that is a

²⁵⁵ 2009 Yearbook, *supra* note 223, at 13. Graph of statistics compiled from 2009 Yearbook by author.

²⁵⁶ Ruth Ellen Wasem, *U.S. Immigration Policy on Temporary Admissions*, CONGRESSIONAL RESEARCH SERVICE 2, Feb. 28, 2011 available at <http://www.fas.org/sgp/crs/homsec/RL31381.pdf>

²⁵⁷ Derekh Cornwell & Bryan Roberts, *The 9/11 Terrorist Attack and Overseas Travel to the United States: Initial Impacts and Longer-Run Recovery*, DEPT. OF HOMELAND SECURITY 1, March 2010, available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ni_911_wp.pdf

²⁵⁸ Cornwell & Roberts, *supra* note 257, at 3

²⁵⁹ P.L. 107-173

state sponsor of international terrorism.²⁶⁰ Provisions in the Homeland Security Act²⁶¹ and the Intelligence Reform and Terrorism Prevention Act of 2004²⁶² also included broad reforms of immigration law to tighten procedures and oversight of aliens temporarily admitted to the United States.²⁶³

The security procedures related to visa issuance did not affect travelers from countries participating in the Visa Waiver Program (VWP); as we stated earlier, Lebanon does not participate.²⁶⁴ The results of a study indicate that the new security protocol, far from tipping the balance of arrivals to VWP countries, the numbers coming from the latter dropped. In effect, there were an even greater percentage of arrivals from non-VWP countries than VWP ones after 9/11,²⁶⁵ despite the fact that travelers from non-VWP countries were often subject to an additional layer of processing.²⁶⁶

In 2002 and 2003, the Attorney General used his statutory power under the Immigration and Nationality Act to create a series of "special registration" requirements of immigrants from areas within the "al Qaeda" zone who are not legal permanent residents.²⁶⁷ Special registration requires immigrants from certain nations to register when they arrive in the United States, while those already in the United States were required to come forward for a "call-in" registration.²⁶⁸ Immigrants from nations where Al Qaeda is known

²⁶⁰ P.L. 107-173, 306(a). There are currently four countries who are designated as state sponsors of terrorism: Cuba, Iran, Sudan and Syria. See U.S. DEPT. OF STATE, *State Sponsors of Terrorism*, (last updated Jan 4, 2011), available at http://informationiran911case.com/Exhibit_12.pdf.

²⁶¹ 6 U.S.C. 101 (a) (West 2002). The act proclaims that the primary mission of the Department of Homeland Security, the main administrative branch responsible for immigration, is to prevent terrorist attacks within the United States.

²⁶² P.L. 108-458

²⁶³ Ruth Ellen Wasem, *U.S. Immigration Policy on Temporary Admissions*, CONGRESSIONAL RESEARCH SERVICE 2, Feb. 28, 2011 available at <http://www.fas.org/sgp/crs/homesecc/RL31381.pdf>

²⁶⁴ Cornwell & Roberts, *supra* note 257, at 1.

²⁶⁵ Cornwell & Roberts, *supra* note 257, at 2.

²⁶⁶ Cornwell & Roberts, *supra* note 257, at 1.

²⁶⁷ Section 1303(a)(6) of the Immigration and Nationality Act of 1990 gives the Attorney General (and now the Secretary of the DHS) the power to prescribe special registration requirements for certain classes of temporary visitors or nonimmigrants. 8 U.S.C. § 1303(a)(6) (2004). Tumlin, *supra* note 226, at 1187.

Presently, the special registration program covers four groups:

Group One applies to males who (1) were born on or before November 15, 1986, (2) are nationals or citizens of Iran, Iraq, Libya, Sudan, and Syria, (3) were inspected by the INS and last admitted to the United States as a nonimmigrant on or before September 10, 2002, (4) did not apply for asylum on or before November 6, 2002, and (5) will be in the United States at least until December 16, 2002. Group One individuals were required to register between January 27, 2003, and February 7, 2003. 67 Fed. Reg. 57032 (Sept. 6, 2002); 67 Fed. Reg. 67766 (Nov. 15, 2002).

Group Two applies to males who were (1) born on or before December 2, 1986, (2) are nationals or citizens of Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, U.A.E., or Yemen, (3) were inspected by the INS and last admitted to the United States as a nonimmigrant on or before September 30, 2002, (4) did not apply for asylum on or before November 22, 2002, and (5) will be in the United States at least until January 10, 2003. Group Two individuals were required to register between January 27, 2003, and February 7, 2003. 67 Fed. Reg. 70526 (Nov. 22, 2002); 68 Fed. Reg. 2366-2367 (Jan. 16, 2003).

Group Three applies to males who (1) were born on or before January 13, 1987, (2) are nationals or citizens of Pakistan or Saudi Arabia, (3) were inspected by the INS and last admitted to the United States as a nonimmigrant on or before September 30, 2002, (4) did not apply for asylum on or before December 18, 2002, and (5) will be in the United States at least until February 21, 2003. Group Three individuals were required to register between January 13, 2003, and February 21, 2003. 67 Fed. Reg. 77642 (Dec. 18, 2002).

Group Four applies to males who (1) were born on or before February 24, 1987, (2) are nationals or citizens of Bangladesh, Egypt, Indonesia, Jordan, or Kuwait, (3) were inspected by the INS and last admitted to the United States as a nonimmigrant on or before September 30, 2002, (4) did not apply for asylum on or before January 16, 2003, and (5) will be in the United States at least until March 28, 2003. Group Four individuals were required to register between January 24, 2003, and March 28, 2003. 68 Fed. Reg. 2363-2366 (Jan. 16, 2003).

²⁶⁸ Tumlin, *supra* note 226, at 1187.

to have operated or had sympathizers among them Lebanon, received increased attention through a form of profiling based on a combination of immigration status and nationality.²⁶⁹ The intelligence evidence relied upon to establish al Qaeda's operations in these countries is strained and has changed over the course of the 9/11 investigation, but the list of countries included in these new policies has not similarly contracted.²⁷⁰

This policy requires Lebanese men 16 years or older to register.²⁷¹ Nonimmigrants who are citizens or nationals of certain countries designated by the Attorney General were initially required to report to the DHS upon arrival, 30 days after arrival, every 12 months after arrival, upon certain events (such as change of address, employment, or school), and at the time of departure from the U.S.²⁷² In addition, nonimmigrants from these countries who are already present in the United States at the time they were "designated" for "special registration" must submit to a "call-in registration" program and present themselves to the DHS by the deadline indicated in the Federal Register.²⁷³ They had to also provide photographs and fingerprints.

The National Security Entry-Exit Registration System (NSEERS),²⁷⁴ which was implemented at selected ports of entry on September 11, 2002, and in all ports of entry on October 1, 2002.²⁷⁵ The final rule eliminated the 30-day and annual registration interviews for all noncitizens subject to NSEERS registration, instead notifying individual noncitizens of their future registration requirements on a case-by-case basis.²⁷⁶

As a result of the special registration program, the U.S. government arrested, detained, and interrogated a large, indeterminate contingent of Arab and Muslim noncitizens, and engaged in selective deportations of Arab and Muslim noncitizens.²⁷⁷ Nearly all the designated countries are predominantly Muslim, and some human rights groups have argued that the program is a form of racial profiling.²⁷⁸ In Operation Absconder, the U.S. government focused removal efforts selectively on noncitizens from nations that "harbored" terrorists, identified for the most part as nations populated predominantly by Arabs and

²⁶⁹ Tumlin, *supra* note 226, at 1184.

²⁷⁰ Tumlin, *supra* note 226, at 1185.

²⁷¹ Tumlin, *supra* note 226, at 1189.

²⁷² FY 2003 Performance Plan, Jul. 23, 2003, *available at* www.dhs.gov/xlibrary/assets/FY2003_Performance_Plan.pdf, and information about updating information for those noncitizens who have been required to register under special registration, *available at*

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=b67d464cbd9a3210VgnVCM100000b92ca60aRCRD&vgnnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>.

²⁷³ *Id.* (FY 2003 Performance Plan, Jul. 23, 2003, *available at* www.dhs.gov/xlibrary/assets/FY2003_Performance_Plan.pdf, and information about updating information for those noncitizens who have been required to register under special registration, *available at*

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=b67d464cbd9a3210VgnVCM100000b92ca60aRCRD&vgnnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>.)

²⁷⁴ *Press Release*, DEPT. OF HOMELAND SECURITY, *Fact Sheet: Changes to National Security Entry/Exit Registration System (NSEERS)* (December 1, 2003), *available at* http://www.dhs.gov/xnews/releases/press_release_0305.shtm.

²⁷⁵ For a comprehensive review of the provisions of "special registration," *See* Vikram Badrinath, *National Immigration Project Immigration Current Awareness Newsletter* (April 16, 2003) 2003 NIP ICAN 2003.

²⁷⁶ 8 C.F.R. § 264.1(f).

²⁷⁷ Johnson & Trujillo, *supra* note 164, at 1376.

²⁷⁸ *See, e.g.*, HUMAN RIGHTS WATCH, U.S. "Operation Liberty Shield" Undermines Asylum Seekers' Rights, Mar. 25, 2003, *available at* <http://www.hrw.org/en/news/2003/03/25/us-operation-liberty-shield-undermines-asylum-seekers-rights>; Press Release, AM. CIVIL LIBERTIES UNION, *ACLU Calls Immigrant Registration Program Pretext for Mass Detentions* (Dec. 19, 2002), *available at* <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=11503&c=206>; AM. IMMIGRATION LAWYERS ASSOCIATION, *Executive Actions Threaten Fundamental Freedoms*, *available at* <http://www.aila.org/fileViewer.aspx?docID=9847>.

Muslims.²⁷⁹ Although criticized as impermissible racial profiling, the targeting of Arabs and Muslims in various immigration policies flourished for several years after September 11, 2001. The special registration was finally terminated early in 2011 as the panic over terrorism recedes and the criticism of racial profiling was accepted, but its existence demonstrates the hurdles noncitizens, especially from Muslim countries, need to overcome to obtain status in the United States.²⁸⁰

In 2000, 28,277 Lebanese entered the United States on temporary visas and this number increased in 2001 to 32,352.²⁸¹ In 2002 nonimmigrant admissions for Lebanese nationals fell to 21,847 and again in 2003 to 19,415.²⁸² Each subsequent year until 2009 saw an increase in Lebanese visitors coming to the United States, moving back toward pre- 9/11 numbers.²⁸³ In 2009, 26,894 Lebanese nationals were admitted to the United States on nonimmigrant visas.²⁸⁴ Of these, 78⁰% were admitted on tourist or business (B1 or B2 visas).²⁸⁵ Only 2,619 entered as students or exchange visitors and 1,092 entered as diplomats and other governmental representatives.²⁸⁶

²⁷⁹ See Kevin Lapp, *Pressing Public Necessity: The Unconstitutionality of the Absconder Apprehension Initiative*, 29 N.Y.U. REV. L. & SOC. CHANGE 573, 573-76 (2005); Tumlin, *supra* note 129, at 1190-93.

²⁸⁰ CAPITAL IMMIGRATION, *Special Registration Program (NSEERS) Ends Effective Today*, Apr. 28, 2011, available at <http://www.cilawgroup.com/news/2011/04/28/special-registration-program-nseers-ends-effective-today-april-28-2011/>.

²⁸¹ 2009 Yearbook, *supra* note 222, at 68.

²⁸² 2009 Yearbook, *supra* note 222, at 68.

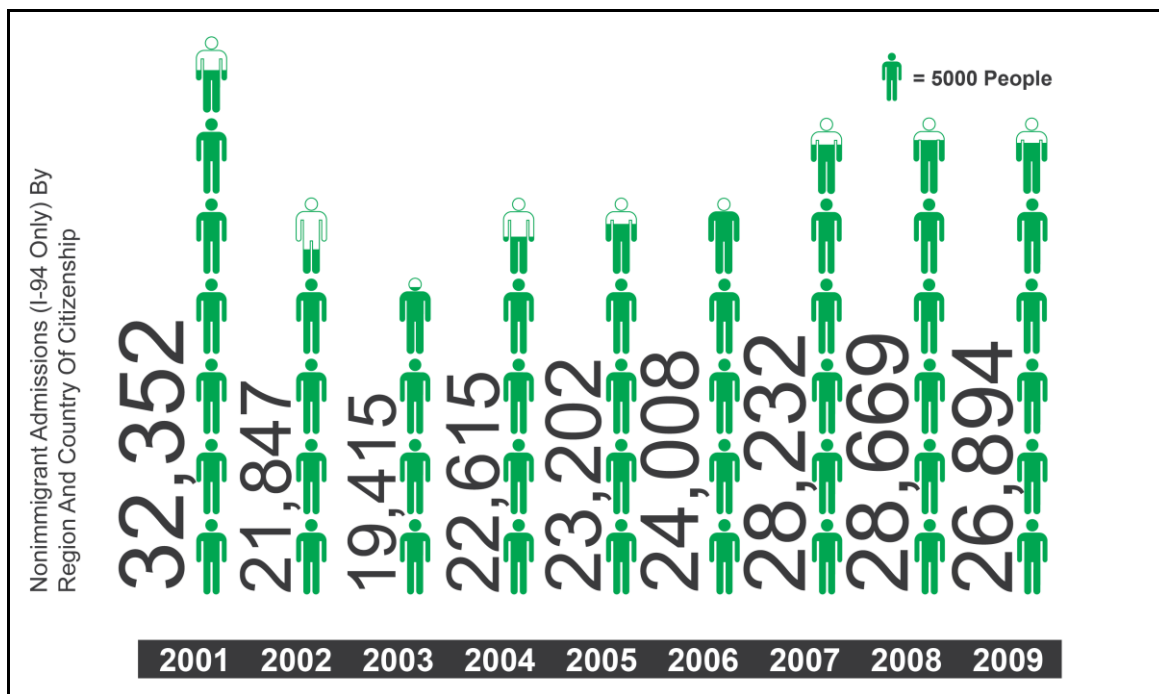
²⁸³ 2009 Yearbook, *supra* note 222, at 68.

²⁸⁴ DEPT. OF HOMELAND SECURITY, *Yearbook of Immigration Statistics 2009, Table 28: Nonimmigrant Admissions (I-94 Only) by Selected Category of Admission and Region and Country of Citizenship: Fiscal Year 2009*, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2009/table28d.xls>

²⁸⁵ DEPT. OF HOMELAND SECURITY, *Yearbook of Immigration Statistics 2009, Table 28: Nonimmigrant Admissions (I-94 Only) by Selected Category of Admission and Region and Country of Citizenship: Fiscal Year 2009*, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2009/table28d.xls>

²⁸⁶ *Id.*

Graph 4: Nonimmigrant Lebanese Admissions from 2001 to 2009²⁸⁷



Some scholars believe that broader policy goals have influenced American asylum policy in recent decades. Most recently, asylum enforcement has been plagued with legislation targeting individuals from Arab countries, mostly as an instrument to combat terrorism. In addition to establishing the registration program, the federal government is pursuing similarly selective immigration policies through the Absconder Initiative, which targets aliens from “al Qaeda” nations for removal, as well as through Operation Liberty Shield, which subjected asylum applicants from many such countries to mandatory detention.²⁸⁸ Launched ostensibly to insure the security of the American homeland, it is under the protection of Operation Liberty Shield that the U.S. has denied parole and kept detained arriving asylum applicants from Iraq and 33 other countries for the duration of their asylum proceedings.²⁸⁹ Operation Liberty Shield came into play based on the secret designation of certain nationalities as suspect,²⁹⁰ due to their home countries’ reputation for either hosting al-Qaeda sympathizers or sympathizers of other terrorist groups.²⁹¹ In all, there were 33 unnamed countries in the pool,²⁹² one of which was believed to be Lebanon.²⁹³ DHS later clarified the scope of

²⁸⁷ 2009 Yearbook, *supra* note 222, at 68. Statistics compiled from Yearbook by author.

²⁸⁸ See Memorandum from the Deputy Attorney General, U.S. DEPARTMENT OF JUSTICE, *Guidance for Absconder Apprehension Initiative* (Jan. 25, 2002), available at <http://news.findlaw.com/hdocs/docs/doj/abscondr012502mem.pdf>.

²⁸⁹ Thomas Hutchins, *Detention of Aliens: An Overview of Current Law*, 03-04 IMMIGR. BRIEFINGS 1, (2003).

²⁹⁰ HUMAN RIGHTS WATCH, U.S. “Operation Liberty Shield” Undermines Asylum Seekers’ Rights, Mar. 25, 2003, available at <http://www.hrw.org/en/news/2003/03/25/us-operation-liberty-shield-undermines-asylum-seekers-rights>

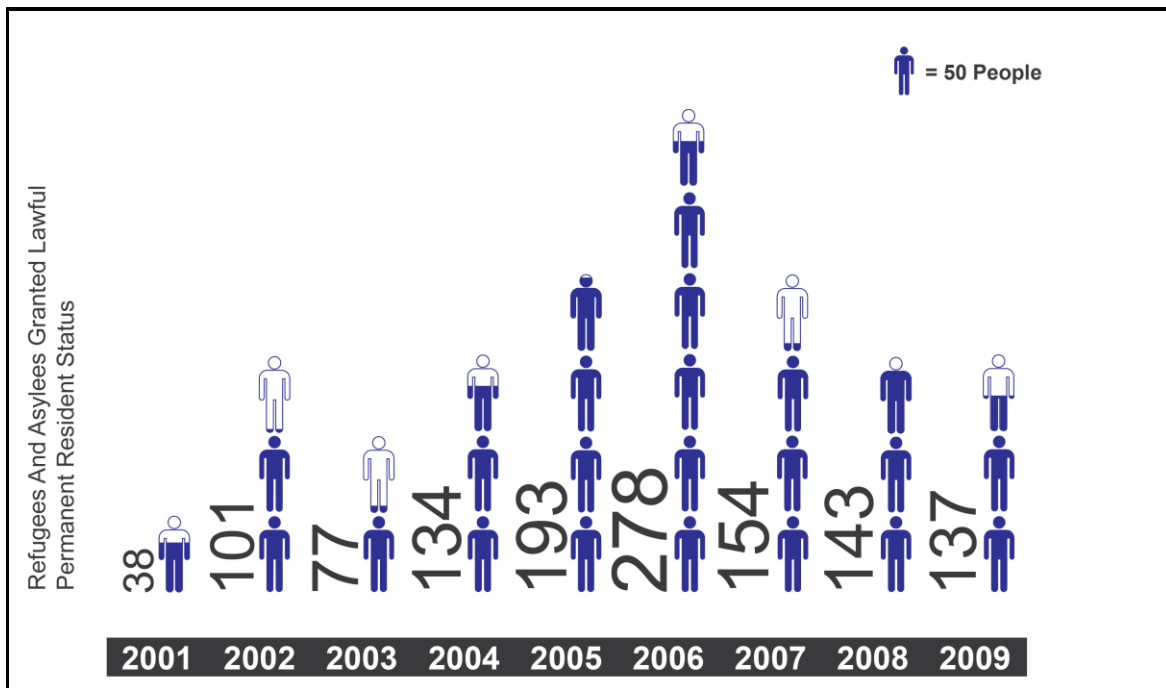
²⁹¹ DHS Secretary Tom Ridge said, “Operation Liberty Shield makes clear that no immigrant group, even those traditionally protected by U.S. immigrant policy, is immune from suspicion if it is associated, even unfairly, with al Qaeda.” Philip Shenon, *Threats and Responses: Immigration; New Asylum Policy Comes Under Fire*, N.Y. TIMES, Mar. 18, 2003, at A22.

²⁹² See Press Kit, U.S. DEP’T OF HOMELAND SECURITY, *Operation Liberty Shield* (Mar. 17, 2003), available at <http://www.dhs.gov/dhspublic/display?content=520>. See also Hutchins, *supra* note 280.

²⁹³ Targeted asylum seekers were believed to be those arriving from 33 countries and 2 territories, including Afghanistan, Algeria, Bahrain, Bangladesh, Djibouti, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kazakhstan, Kuwait, Lebanon, Libya, Malaysia, Morocco, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Thailand, Tajikistan, Tunisia, Turkey,

Operation Liberty Shield, saying that it applied only to asylum seekers from Iraq and the 33 unnamed countries who arrived without identity documents;²⁹⁴ months after its launch, the program was terminated due to criticism of its procedures.²⁹⁵ While the federal government has stated that the new policies are not based on race, ethnicity, or religion, commentators have argued that these criteria have played a role in the formulation of immigration policies in the wake of the terrorist attacks.²⁹⁶

Graph 5: Refugees and Asylees Granted LPR Status from 2001 to 2009²⁹⁷



During the period immediately following September 11th, the United States saw a decline in successful applicants for refugee or asylum status from Lebanon. In 2002, 101 individuals were granted status.²⁹⁸ In 2003, this number dropped to 73 people.²⁹⁹ The next year, 134 Lebanese were successful in their

Turkmenistan, United Arab Emirates, Uzbekistan and Yemen, as well as Gaza and the West Bank. Press Release, *Operation Liberty Shield Quietly Terminated*, HUMAN RIGHTS FIRST, May 15, 2003, available at <http://www.humanrightsfirst.org/2003/05/15/operation-liberty-shield-quietly-terminated/>.

²⁹⁴ Hutchins, *supra* note 289.

²⁹⁵ The program was met with concern and protest from many legal assistance, advocacy, and faith-based organizations that work with refugees. The United Nations High Commissioner for Refugees also publicly criticized the policy. See Press Release, *Operation Liberty Shield Quietly Terminated*, HUMAN RIGHTS FIRST, May 15, 2003, available at <http://www.humanrightsfirst.org/2003/05/15/operation-liberty-shield-quietly-terminated/>.

²⁹⁶ Adam B. Cox, *Citizenship, Standing, and Immigration Law*, 92 CAL. L. REV. 373, 414 (2004).

²⁹⁷ Statistics compiled from Yearbooks listed at notes 221, and from notes 298 to 302.

²⁹⁸ OFFICE OF IMMIGRATION STATISTICS, *2002 Yearbook of Immigration Statistics*, DEPT. OF HOMELAND SECURITY 31, Sept. 2004, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2002/Yearbook2002.pdf>

²⁹⁹ OFFICE OF IMMIGRATION STATISTICS, *2003 Yearbook of Immigration Statistics*, DEPT. OF HOMELAND SECURITY 30, Oct. 2003, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2003/2003Yearbook.pdf>

claims.³⁰⁰ As tensions with Israel in Lebanon grew into war, 2005 and 2006 saw even more Lebanese nationals succeed in gaining asylum and refugee status, with 193³⁰¹ and 278³⁰² individuals, respectively.

In mid-2006, the American-Arab Anti-Discrimination Committee (ADC) requested that the Department of Homeland Security and the Department of State designate Lebanon and the Gaza Strip for Temporary Protected Status due to the severe humanitarian crisis caused by Israeli attacks on those areas.³⁰³ The organization, in its report, claimed that the bombing of the Beirut airport, seaport, bridges, gas stations and roads effectively closed all means of communication to and from Lebanon.³⁰⁴ It is estimated that 600,000 were displaced as a result of the bombings and the United Nations stated that another 500,000 are expected to flee their homes if the bombing continues.³⁰⁵ Following public pressures and with the backing of 40 other organizations,³⁰⁶ a bill was introduced in the House to designate Lebanon under section 244(b) of the INA to permit nationals of Lebanon to be granted temporary protected status in the United States; however, it was never enacted.³⁰⁷

The United States supported the Lebanese government elected in June 2009 and led by Prime Minister Saad Hariri,³⁰⁸ as migration in all categories discussed in this paper declined. Fears of Hezbollah taking leadership control in 2010 and the upset victory over U.S.-backed leadership in early 2011 may have affected migration to the United States from Lebanon, but full statistics for both years have yet to be released. If the past is any guide, then the most recent events in Lebanon, specifically the changes in government leadership from pro-Western to a Hezbollah majority legislature, and the resistance that we are seeing to arresting Hezbollah members indicted by the Special Tribunal, will likely have an impact on migration in 2011. As we have seen, certain events perceived by American policymakers as anti-American generate immigration policies aimed at shaming the home countries of the migrants; on the other hand, heightened security concerns can choke off migration from nations associated with terrorism as defined by the United States. The tale will be told by the statistics released by the Department of Homeland Security next year.

V. CONCLUSION

Overall events in Lebanon since 1975 have served as push factors of Lebanese migration, but not surprisingly, American immigration policy has taken a prominent role in affecting the levels of actual migration. What has resulted from the sometimes crossed purposes of the American foreign policy mission

³⁰⁰ OFFICE OF IMMIGRATION STATISTICS, *2004 Yearbook of Immigration Statistics*, DEPT. OF HOMELAND SECURITY 28, Jan. 2006, available at <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2004/Yearbook2004.pdf>

³⁰¹ OFFICE OF IMMIGRATION STATISTICS, *2005 Yearbook of Immigration Statistics*, DEPT. OF HOMELAND SECURITY 32, Nov. 2006, available at http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2005/OIS_2005_Yearbook.pdf

³⁰² OFFICE OF IMMIGRATION STATISTICS, *2006 Yearbook of Immigration Statistics*, DEPT. OF HOMELAND SECURITY 28, Sept. 2007, available at http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2006/OIS_2006_Yearbook.pdf

³⁰³ AM.-ARAB ANTI-DISCRIMINATION COMMITTEE, *ADC Files for Temporary Protected Status for Citizens of Lebanon and Gaza*, July 24, 2006, available at <http://www.adc.org/index.php?id=2867>

³⁰⁴ AM.-ARAB ANTI-DISCRIMINATION COMMITTEE, *supra* note 298.

³⁰⁵ AM.-ARAB ANTI-DISCRIMINATION COMMITTEE, *supra* note 298.

³⁰⁶ ARAB AMERICAN NEWS WIRE, PR: *Groups back "Protected Status" designation for Lebanon and Gaza Strip*, Sept. 18, 2006, available at <http://aams.blogspot.com/2006/09/pr-groups-back-protected-status.html>

³⁰⁷ LEBANESE TEMPORARY PROTECTED STATUS ACT OF 2006, H.R. 6082, 109th Session (Sept. 14, 2006)

³⁰⁸ Addis, *supra* note 8, at 3.

in the Middle East is somewhat muddled, and it is hard to build a cause and effect model that would predict year by year outcomes over multi-year trends. Surprisingly, when Lebanon was embroiled in civil war and the occupation by Israel, there were relatively low levels of migration to the United States. The comparison with the high figures for migration to Australia show that this is not due to a decrease in the aggregate will to migrate. Years where diplomatic stress was low saw both high and low levels of migration overall. There is no unilateral explanation, other than perhaps the nuanced effects of different political maneuverings and policy goals, on the immigrant policy end, along with a lessened impetus to migrate in more peaceful times, which brought about differing numbers of applications for admission in these categories.

What does seem to be clear is the migration picture must be seen relative to the three distinct U.S. foreign policy focuses in the Middle East, and to Lebanon in particular. The first focus was the cold war mentality of power politics, with the U.S. attempting to outstrip its Communist and Islamicist rivals through military and strategic avenues, and using LPR status and asylum status during intervals of political strain as a soft political tool either to shame its rivals or to reward its allies (which sometimes meant ignoring applications for asylum in as much as it might embarrass those allies). The second policy focus, shared with the rest of the world, was one of humanitarian relief where the U.S. focused more on asylum and granting temporary protected status. Periods where humanitarian avenues of migration have been relatively open to Lebanese migrants correlate to periods of diplomatic stress between Lebanon and the United States. Finally, the post 9/11 time frame, from which we seem to be emerging, heavily emphasized security concerns and the democratization mission that the United States embarked upon after the invasion of Iraq. Three events marked the U.S.-Lebanon relationship during this period: the rise of Hezbollah and its mainstreaming in Lebanon; the 'Cedar Revolution' and the withdrawal of the Syrian military; and the 2006 war with Israel. The United States viewed these matters through the lenses of its anti-terrorism and pro-democracy goals. American immigration policy will likely continue to be used as a foreign policy tool and as a weapon in the war on terror, especially with recent declines in Lebanese migration in all categories discussed in this paper. The world waits for Lebanon's reaction to the Special Tribunal of Lebanon indictments and Hezbollah's reaction.

Security Council

Distr.: General
29 March 2006

Resolution 1664 (2006)

**Adopted by the Security Council at its 5401st meeting, on
29 March 2006**

The Security Council,

Recalling all its previous relevant resolutions, in particular resolutions 1595 (2005) of 7 April 2005, 1636 (2005) of 31 October 2005 and 1644 (2005) of 15 December 2005,

Reiterating its call for the strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon,

Mindful of the demand of the Lebanese people that all those responsible for the terrorist bombing that killed former Lebanese Prime Minister Rafiq Hariri and others be identified and brought to justice,

Recalling the letter of the Prime Minister of Lebanon to the Secretary-General of 13 December 2005 (S/2005/783) requesting inter alia the establishment of a tribunal of an international character to try all those who are found responsible for this terrorist crime and recalling its request to the Secretary-General in its resolution 1644 (2005) to help the Government of Lebanon identify the nature and scope of the international assistance needed in this regard,

Having examined the report of 21 March 2006 submitted by the Secretary-General pursuant to paragraph 6 of resolution 1644 (2005) (S/2006/176), and welcoming the common understanding reached between the Secretariat and the Lebanese authorities on the key issues regarding the establishment and the main features of a possible tribunal,

Willing to continue to assist Lebanon in the search for the truth and in holding all those involved in this terrorist attack accountable,

1. *Welcomes* the report of the Secretary-General, and requests him to negotiate an agreement with the Government of Lebanon aimed at establishing a tribunal of an international character based on the highest international standards of criminal justice, taking into account the recommendations of his report and the views that have been expressed by Council members;

2. *Acknowledges* that the adoption of the legal basis of, and framework for, the tribunal, would not prejudice the gradual phasing-in of its various components



S/RES/1664 (2006)

and would not predetermine the timing of the commencement of its operations, which will depend on the progress of the investigation;

3. *Requests* the Secretary-General to update the Council on the progress of the negotiation as he deems appropriate and to submit in a timely manner for the consideration of the Council a report on the implementation of this resolution, in particular on the draft agreement negotiated with the Lebanese Government, including options for a funding mechanism appropriate to ensure the continued and effective functioning of the tribunal;

4. *Decides* to remain seized of the matter.

Security Council

Distr.: General
11 August 2006

Resolution 1701 (2006)

**Adopted by the Security Council at its 5511th meeting, on
11 August 2006**

The Security Council,

Recalling all its previous resolutions on Lebanon, in particular resolutions 425 (1978), 426 (1978), 520 (1982), 1559 (2004), 1655 (2006) 1680 (2006) and 1697 (2006), as well as the statements of its President on the situation in Lebanon, in particular the statements of 18 June 2000 (S/PRST/2000/21), of 19 October 2004 (S/PRST/2004/36), of 4 May 2005 (S/PRST/2005/17), of 23 January 2006 (S/PRST/2006/3) and of 30 July 2006 (S/PRST/2006/35),

Expressing its utmost concern at the continuing escalation of hostilities in Lebanon and in Israel since Hizbollah's attack on Israel on 12 July 2006, which has already caused hundreds of deaths and injuries on both sides, extensive damage to civilian infrastructure and hundreds of thousands of internally displaced persons,

Emphasizing the need for an end of violence, but at the same time *emphasizing* the need to address urgently the causes that have given rise to the current crisis, including by the unconditional release of the abducted Israeli soldiers,

Mindful of the sensitivity of the issue of prisoners and *encouraging* the efforts aimed at urgently settling the issue of the Lebanese prisoners detained in Israel,

Welcoming the efforts of the Lebanese Prime Minister and the commitment of the Government of Lebanon, in its seven-point plan, to extend its authority over its territory, through its own legitimate armed forces, such that there will be no weapons without the consent of the Government of Lebanon and no authority other than that of the Government of Lebanon, *welcoming also* its commitment to a United Nations force that is supplemented and enhanced in numbers, equipment, mandate and scope of operation, and *bearing in mind* its request in this plan for an immediate withdrawal of the Israeli forces from southern Lebanon,

Determined to act for this withdrawal to happen at the earliest,

Taking due note of the proposals made in the seven-point plan regarding the Shebaa farms area,

Welcoming the unanimous decision by the Government of Lebanon on 7 August 2006 to deploy a Lebanese armed force of 15,000 troops in South Lebanon as the Israeli army withdraws behind the Blue Line and to request the assistance of



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additional forces from the United Nations Interim Force in Lebanon (UNIFIL) as needed, to facilitate the entry of the Lebanese armed forces into the region and to restate its intention to strengthen the Lebanese armed forces with material as needed to enable it to perform its duties,

Aware of its responsibilities to help secure a permanent ceasefire and a long-term solution to the conflict,

Determining that the situation in Lebanon constitutes a threat to international peace and security,

1. *Calls for* a full cessation of hostilities based upon, in particular, the immediate cessation by Hizbollah of all attacks and the immediate cessation by Israel of all offensive military operations;

2. Upon full cessation of hostilities, *calls upon* the Government of Lebanon and UNIFIL as authorized by paragraph 11 to deploy their forces together throughout the South and *calls upon* the Government of Israel, as that deployment begins, to withdraw all of its forces from southern Lebanon in parallel;

3. *Emphasizes* the importance of the extension of the control of the Government of Lebanon over all Lebanese territory in accordance with the provisions of resolution 1559 (2004) and resolution 1680 (2006), and of the relevant provisions of the Taif Accords, for it to exercise its full sovereignty, so that there will be no weapons without the consent of the Government of Lebanon and no authority other than that of the Government of Lebanon;

4. *Reiterates* its strong support for full respect for the Blue Line;

5. *Also reiterates* its strong support, as recalled in all its previous relevant resolutions, for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized borders, as contemplated by the Israeli-Lebanese General Armistice Agreement of 23 March 1949;

6. *Calls on* the international community to take immediate steps to extend its financial and humanitarian assistance to the Lebanese people, including through facilitating the safe return of displaced persons and, under the authority of the Government of Lebanon, reopening airports and harbours, consistent with paragraphs 14 and 15, and *calls on* it also to consider further assistance in the future to contribute to the reconstruction and development of Lebanon;

7. *Affirms* that all parties are responsible for ensuring that no action is taken contrary to paragraph 1 that might adversely affect the search for a long-term solution, humanitarian access to civilian populations, including safe passage for humanitarian convoys, or the voluntary and safe return of displaced persons, and *calls on* all parties to comply with this responsibility and to cooperate with the Security Council;

8. *Calls for* Israel and Lebanon to support a permanent ceasefire and a long-term solution based on the following principles and elements:

- full respect for the Blue Line by both parties;
- security arrangements to prevent the resumption of hostilities, including the establishment between the Blue Line and the Litani river of an area free of any

armed personnel, assets and weapons other than those of the Government of Lebanon and of UNIFIL as authorized in paragraph 11, deployed in this area;

- full implementation of the relevant provisions of the Taif Accords, and of resolutions 1559 (2004) and 1680 (2006), that require the disarmament of all armed groups in Lebanon, so that, pursuant to the Lebanese cabinet decision of 27 July 2006, there will be no weapons or authority in Lebanon other than that of the Lebanese State;
- no foreign forces in Lebanon without the consent of its Government;
- no sales or supply of arms and related materiel to Lebanon except as authorized by its Government;
- provision to the United Nations of all remaining maps of landmines in Lebanon in Israel's possession;

9. *Invites* the Secretary-General to support efforts to secure as soon as possible agreements in principle from the Government of Lebanon and the Government of Israel to the principles and elements for a long-term solution as set forth in paragraph 8, and *expresses* its intention to be actively involved;

10. *Requests* the Secretary-General to develop, in liaison with relevant international actors and the concerned parties, proposals to implement the relevant provisions of the Taif Accords, and resolutions 1559 (2004) and 1680 (2006), including disarmament, and for delineation of the international borders of Lebanon, especially in those areas where the border is disputed or uncertain, including by dealing with the Shebaa farms area, and to present to the Security Council those proposals within thirty days;

11. *Decides*, in order to supplement and enhance the force in numbers, equipment, mandate and scope of operations, to authorize an increase in the force strength of UNIFIL to a maximum of 15,000 troops, and that the force shall, in addition to carrying out its mandate under resolutions 425 and 426 (1978):

- (a) Monitor the cessation of hostilities;
- (b) Accompany and support the Lebanese armed forces as they deploy throughout the South, including along the Blue Line, as Israel withdraws its armed forces from Lebanon as provided in paragraph 2;
- (c) Coordinate its activities related to paragraph 11 (b) with the Government of Lebanon and the Government of Israel;
- (d) Extend its assistance to help ensure humanitarian access to civilian populations and the voluntary and safe return of displaced persons;
- (e) Assist the Lebanese armed forces in taking steps towards the establishment of the area as referred to in paragraph 8;
- (f) Assist the Government of Lebanon, at its request, to implement paragraph 14;

12. Acting in support of a request from the Government of Lebanon to deploy an international force to assist it to exercise its authority throughout the territory, *authorizes* UNIFIL to take all necessary action in areas of deployment of its forces and as it deems within its capabilities, to ensure that its area of operations

is not utilized for hostile activities of any kind, to resist attempts by forceful means to prevent it from discharging its duties under the mandate of the Security Council, and to protect United Nations personnel, facilities, installations and equipment, ensure the security and freedom of movement of United Nations personnel, humanitarian workers and, without prejudice to the responsibility of the Government of Lebanon, to protect civilians under imminent threat of physical violence;

13. *Requests* the Secretary-General urgently to put in place measures to ensure UNIFIL is able to carry out the functions envisaged in this resolution, *urges* Member States to consider making appropriate contributions to UNIFIL and to respond positively to requests for assistance from the Force, and *expresses* its strong appreciation to those who have contributed to UNIFIL in the past;

14. *Calls upon* the Government of Lebanon to secure its borders and other entry points to prevent the entry in Lebanon without its consent of arms or related materiel and *requests* UNIFIL as authorized in paragraph 11 to assist the Government of Lebanon at its request;

15. *Decides* further that all States shall take the necessary measures to prevent, by their nationals or from their territories or using their flag vessels or aircraft:

(a) The sale or supply to any entity or individual in Lebanon of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, whether or not originating in their territories; and

(b) The provision to any entity or individual in Lebanon of any technical training or assistance related to the provision, manufacture, maintenance or use of the items listed in subparagraph (a) above;

except that these prohibitions shall not apply to arms, related material, training or assistance authorized by the Government of Lebanon or by UNIFIL as authorized in paragraph 11;

16. *Decides* to extend the mandate of UNIFIL until 31 August 2007, and *expresses its intention* to consider in a later resolution further enhancements to the mandate and other steps to contribute to the implementation of a permanent ceasefire and a long-term solution;

17. *Requests* the Secretary-General to report to the Council within one week on the implementation of this resolution and subsequently on a regular basis;

18. *Stresses* the importance of, and the need to achieve, a comprehensive, just and lasting peace in the Middle East, based on all its relevant resolutions including its resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973 and 1515 (2003) of 19 November 2003;

19. *Decides* to remain actively seized of the matter.

The Author

Ms. Clairissa Radyko is a candidate for a Juris Doctor degree at Wayne State University Law School. She expects to graduate in May 2012. She is a member of the Wayne Law Review and will be working as a legal intern for Freedom House – Detroit through the winter of 2012, while participating in the law school's voluntary pro bono program. In the summer of 2011, Ms. Radyko was awarded an International Public Interest Law Fellowship by the Program of International Legal Studies at Wayne State. For the fellowship, she worked at the Lebanese Emigration Research Center at Notre Dame University-Louaizé, Lebanon, where she conducted research on U.S. migration policies toward Lebanon. Ms. Radyko worked at the Wayne State Asylum and Immigration Law Clinic as a student attorney throughout 2011. Prior to law school, Ms. Radyko lived in France as an intern for the European-American Center for International Education located at the Abbey of Pontlevoy, France. She graduated from Grand Valley State University in 2007, earning a Bachelor of Arts degree in French and international relations.

