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# REPORT ON CITIZENSHIP LAW: LIBYA

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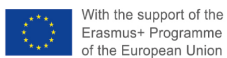
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# Report on Citizenship Law

## Libya

*Maria Gloria Polimeno*

### 1. Introduction

It is impossible to provide an understanding of Libya's contemporary citizenship conundrum without looking at its modern history and internal societal-tribal dynamics. The discord over who qualifies as a Libyan citizen is rooted in the country's colonial past and statecraft dating back to 1951 when Libya proclaimed independence from Italy. Pre-existing disagreements were exacerbated after the 1969 coup by Muammar Gaddafi, which represents a turning point for Libyan citizenship and needs to be understood in the context of the region's history. The Gaddafi regime used citizenship as a political tool, which in turn became intertwined with the dynamics of Libya's ethnicity politics and shaped the making of the nation.

From a historical-colonial perspective, Libya's borders during imperialism – as in the majority of Arab countries - were originally drawn based on territorial acquisitions and treaties between competing empires. Such territorial delimitation ultimately split the homelands of the indigenous population and had a detrimental impact on the nation-building process. Indeed, looking at the regional map shows that, domestically, straight borders tend not to correspond with unified ideas of nations. Independence struggles and tribal wars also led to mass displacement, with hundreds of thousands of Libyans forced to exile, first during the Ottoman rule, and later, during the Italian colonial occupation. Libya's complicated colonial legacy had a direct bearing on citizenship up to the post-2011 civil war. When people claiming Libyan descent returned from exile in the second half of the 20th century, it was framed as a “return to the homeland”. This framing changed in the 21<sup>st</sup> century.

Against this backdrop, this report discusses the Libyan nationality law (i.e., Law No.24 of 2010/1378), contextualises it historically, and compares the current regime with previous regulation (i.e. Laws No.17 of 1954 and No.18 of 1980). It further offers a socio-political perspective on Law No. 24 of 2010/1378 after 2011<sup>1</sup>. Tribal, ethnic, and political divides, as well as migratory influxes in the 1970s-1980s are central to the discussion of provisions regulating the acquisition or loss of Libyan citizenship. Thus, the issue of citizenship in Libya needs to be analysed through multiple lenses that enable us to grasp the intricacy of the process of ‘drawing’ the identity of a Libyan citizen.

This report is divided in three parts. The first part looks at the historical background and at the evolution of the Libyan Nationality Laws, No.17 of 1954 and No.18 of 1980 respectively,

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<sup>1</sup> Law Number (24) for 2010/1378 on the Libyan Nationality, 28 May 2010, article 12; Manby, B. *Citizenship Law in Africa: A Comparative Study*. Open Society Institute (OSI). Updates and corrections, 21 December 2010.

which regulate the acquisition and withdrawal of nationality by *ius soli*, *ius sanguinis* and *ius matrimonii*. The section additionally provides an explanation of how the divide between ethnic and tribal politicisation ultimately projected into the nationality law prior to and after the coup which brought Gaddafi to power in 1969. In the second part, the report considers more contemporary aspects linked to the regulation of citizenship in Libya. It will contextualise the current nationality regime of Law No. 24 of 2010 which replaced Laws No.17 of 1954 and No.18 of 1980 (inclusive of the 1984 amendments). In the final part, the report will discuss the proposed reform plans and amendments to the draft constitution from the perspective of how they set the bases for overcoming limitations still present in the current regime's law. To sum up, the report will discuss the current political tensions and the reconstruction and stabilisation struggles before wrapping up with a general conclusion.

## 2. Historical Background

Before providing an understanding of the transformation of nationality laws in Libya, it is necessary to define what Libyan nationalism is, and how it has evolved historically since the UN General Assembly resolution 289 A (IV) of 21 November 1949 recommended Libya's sovereignty. Libyan nationalism began to rise with the creation of the Senussi religious orders. From 1969, under Muammar Gaddafi, the Arab nationalist sentiments that spread out during the 1950s-1960s started to combine with elements of Pan-Arabism. These elements were enticed by the Nasserist secular Pan-Arabist "da'wa" in Egypt, although Gaddafi's interpretation of Arab nationalism, socialism and Islam became more personalised compared to Egyptian Arab nationalism-socialism and its relationship to religion. Thus, Libya's "State of the Masses" represented a unique political system that was devised by Gaddafi and set out in the ideology promoted by the *Green Book*<sup>2</sup> published in 1975. The Libyan system consisted of a complex hierarchy of congresses and committees, through which every member of society was supposed to participate in the decision-making process. Every Libyan citizen was expected to attend Basic People's Congresses (local assemblies) at which state policies were discussed. Notwithstanding that the organisation of the state infrastructures gave the impression of a well-organised state system, being and becoming a Libyan merits discussion, both under Gaddafi and after his downfall in 2011. It is thus essential to look at Libyan nationalism, and the role played by the myth-symbol complex and ethno-symbolism in the regulation of access to Libyan nationality over the past decades<sup>3</sup>.

### 2.1 The tribal and ethnic divide and the dilemma of accessing Libyan citizenship

Tribal and ethnic dynamics in Libya remain highly complex, and in one way or another, have problematised the discourse of legal recognition and citizenship rights both during and after Gaddafi's rule. From a more contemporary perspective, disagreements and gaps over ethnic-divides and access to nationality remain at the core of future peace processes and the country's prospects of stabilisation. Furthermore, practices of legal exclusion which extended into the

<sup>2</sup> The *Green Book* represented the ideological struggle of Qaddafi and although it is believed it took inspiration from the *Little Red Book* by Mao Tse-Tung, it was also reminiscent of Nasser's *Philosophy of the Revolution* published in 1965. In 2011, during the Libyan Civil War, copies of the book were burnt by protesters.

<sup>3</sup> On the myth-symbol complex and ethno-symbolism see: Smith, A.D., 2015. 'Nations Before Nationalism?: Myth and symbolism in John Armstrong's perspective'. *Nations and Nationalism* 21(1): 165-170.

post-Gaddafi period since 2011 ultimately did not facilitate management of the internal political crisis. Many of the problematic aspects of Libya's citizenship regime had been determined by Gaddafi's approach to migration and the migratory discourse underpinned by tribal-oriented political goals. Broadly speaking, more than 90 percent of Libyans consider themselves to be an ethnic mix of Arab and Berber, while other ethnicities in the country include the nomadic Tuareg and Tebu tribes located in the southwest. Tribes in Libya remain important from a border perspective. Berbers (or Imazighen), mostly located on the western side of the border, alongside sub-Saharan wegh into the issue of ethnic divide and the making of a Libyan nation.<sup>4</sup> Benghazi citizens thus consider tribes to be of core cultural importance, but politically irrelevant, especially after 2011.

From the early 1970s the acquisition of nationality and its withdrawal became more affected by domestic political transformations intertwined with Gaddafi's expansionist goals. Between the 1970s and 1990s, Gaddafi's regime mainly recruited among immigrants to boost armed forces and networks of social control and trained foreign fighters in Libyan military camps.<sup>5</sup> Up until the uprising in 2011, Gaddafi used to rely on the existence of paramilitary forces, some predominantly represented by Sahelian Tuareg and Arab returnees.<sup>6</sup> Drawing on Gaubi, the Libyan military, from its inception as the army of the Sanussi order (referred to as the Libyan Arab Army) in the colonial struggle against Italy back in 1912, to Muammar Gaddafi's 1969 coup, had difficulty in finding its place in the state structures.<sup>7</sup>

Before discussing the exclusionary policies of citizenship applied to the Tebu tribe, there is a need to contextualise Gaddafi's dispute with Chad and his attempt of controlling the mineral-rich Aouzou strip in northern Chad in the 1970s vis-à-vis national identity and citizenship<sup>8</sup>. Gaddafi's claim to the Aouzou Strip in northern Chad, refers to an unratified treaty signed in 1935 between Italy and France. In the 1970s the Libyan troops established military bases in the area as a form of control management which was followed by a process of registration and annexation of the population to Libya. The Tebu tribe was forced to move to Aouzou in order to register claims for new documentation with local authorities. However, Tebu were excluded from the making of a Libyan identity and subjected to extensive persecution.<sup>9</sup>

After several years of conflict, as Chad attempted to retake control of the Aouzou strip annexed by Libya, a ceasefire was reached in 1987<sup>10</sup>. However, since no agreement was reached on the territorial boundary between Libya and Chad, the question was brought before the International Court of Justice.<sup>11</sup> The Court recognised Aouzou as Chad's territory, and Libya recognised the border as delineated by the Court. However, the issue of nationality and status of those resident in the strip or otherwise associated with this area remained contested for a long time.

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<sup>4</sup> The term Berbers refers to an ethnic group native to North Africa and West Africa. Smaller Berber populations are additionally found in Burkina Faso and close to Siwa Oasis in Egypt.

<sup>5</sup> Szilágyi, P. 2012. 'Libya and the Refugees', *Historia Actual Online* 29: 125-130.

<sup>6</sup> Gaubi, F. 2013 'The Libyan Armed Forces between Coup-Proofing and Repression', *Journal of Strategic Studies* 36(2): 221-244.

<sup>7</sup> Gaubi (2013), p.226

<sup>8</sup> The strip geographically referred to a rich in minerals' territory in the southern part of the country bordering Chad.

<sup>9</sup> Van Waas, L.2013 'The Stateless Tebu of Libya?', *Report of the Middle East and North Africa Nationality and Statelessness Research Project* Tilburg Law School Legal Studies Research Paper Series No. 010/2013. [52aace474.pdf](#). Last accessed January 2021, p. 5.

<sup>10</sup> The 1987 ceasefire was preceded on 6 January 1981 by a joint communiqué issued in Tripoli by Gaddafi and Goukouni that Libya and Chad had decided 'to work to achieve full unity between the two countries'.

<sup>11</sup> Van Waas (2013), pp. 5-6.

In 1996, Gaddafi passed decree No.13/1485, declaring all those holding identification issued in Aouzou would be considered foreigners<sup>12</sup>. At the core of decree No.13/1485 of 1996 lay new regulations pertaining to Libyan citizenship resulting from the return of Azouzou to Chad. The decree regulated that individuals with an ID associated with the Azouzou area would be foreigners in Libya. As a result, the Tebu community was put at risk of statelessness. Exclusionary legal practices continued in the subsequent years. They peaked in 2007 when Libyan authorities started revoking the citizenship documents of the Tebu arguing that they were Chadian, rather than Libyan. A renegotiation of the 1996 decree No.13/1485 was started in the latter years of Gaddafi's rule with the political purpose of preventing further opposition in the revolution against the regime. However, the contested status of the Tebu had not been resolved successfully, despite the annulment of the decree No.13/1485 in 2011. Even so, the nationality status of people associated with Aouzou (Tebu) remained unclear. To provide a clearer picture on the complexity of the issue, Van Waas reports of a short interview with a member of the National Tebu Assembly:

*“To this day, the perception and treatment of Tebu still varies from one place to another and in most of the country it largely depends on the individual views of the civil servant how a person is treated. In Murzuk, where Tebu are concentrated, they are usually recognised as Libyan and there are less problems accessing documentation or services. However, this is an exception to the general rule and elsewhere difficulties are still very common. In and around Murzuk, you will find a large group of very poorly educated and impoverished Tebu who had nowhere else to go during the revolution. Their situation is a real worry. It is apparently not clear whether the decree issued by Gaddafi during the revolution which would recognise the Tebu as nationals is now considered valid by the new authorities”* (Interview between Van Waas and Mohammed A'Sunoussy).<sup>13</sup>

In 2011, during the revolution, Libya became split into two. The Western half, with Tripoli, was still under the authority of Gaddafi, while the Eastern side, with Benghazi, came under the control of the opposition. The opposition did not recognise the effects of the 1996 Decree and saw those with Aouzou documents as Libyan, in a bid to encourage them to take up the fight against the government. To avoid its opponents gaining an even greater power, or opening a new front of dissent in the South where many Tebu resided, Gaddafi's regime passed a new Decree which cancelled the 1996 one. The hope was that the Tebu would then support the ruling government.

However, following the overthrow of the Gaddafi regime and the 2012 elections that ensued, the Tebu had problems with registration on the civil register. The status of the tribe remained contested until 2012. Even then, in certain cases, decision-making related to the status of the Tebu remained contested by native residents who rejected the idea of immigrant groups being naturalised.

## **2.2 Nationality after independence: Law No.17 of 1954 vs. Law No.18 of 1980**

Following the independence of the Kingdom of Libya, the legal foundations regulating citizenship and nationality were laid down in the 1951 Constitution. Together with the Citizenship Law of 1954, it determined the bases on which the definition of being Libyan amongst resident citizens and those in territories with contested borders. Pursuant to of Law

<sup>12</sup> Libyan Presidential Decree No.13/1485 of 1996. (Minority Rights Groups International, 2018)

<sup>13</sup> Van Waas (2013), p. 12.

No.17 of 1954 citizenship was granted to people residing in Libya on 18 April 1954 if they had been born in Libya, born abroad to a parent born in Libya, or had been living there for at least ten years (or five years for Arabs). Regulation of the acquisition and loss of Libyan citizenship and nationality went through a series of revisions, specifically in 1954 (Law No.17), in 1980 (Law No.18) and, most recently, in 2010. Law No. 24 of 2010 is still the current legal regime for citizenship.

Nationality law was amended in 1980 in due to an ideological shift rooted in Gaddafi's Pan-Africanism.<sup>14</sup> Gaddafi's socialist pan-African sentiments, previously influenced by Nasser's Pan-Arabism, emerged out of the failure of the 1960's Arab nationalism, juxtaposed to Western elite nationalisms. Such a turn to pan-Africanism ultimately led to amendments to the Libyan Nationality Act (Law No.18 of 1980)<sup>15</sup>. Broadening the discussion from a regional and comparative perspective; it can be argued that there was a similarity between the Arab Nationality Law of 1980 in Libya and Sadat's Egypt Nationality Law No. 26 of 1975, in the way the idea of an "Arabness" became engrained in the regulation of national identity and citizenship<sup>16</sup>. However, unlike in Egypt under Sadat, a combination of Libyan ethno-symbolism and tribal divides problematised the meaning of "being Libyan", as well as of the meaning of "being Arab".

Highlighting the most crucial aspects of the Libyan nationality law, and in stark contrast to Article 2 of Law No.17 of 1954, Article 1 of Law No.18 of 1980 expanded the meaning of the concept of nationality by not limiting it to "becoming Libyan", but Libyan-Arab<sup>17</sup>. Further regulations followed in Article 2(a, b) and extended the right to naturalisation to the citizens of Arab countries, with the exception of Palestinian Arabs<sup>18</sup>. The amendments to the Libyan Nationality Law of 1980 bore similarities to the 1975 nationality law in Egypt, but were limited to Arabic identity as determined and influenced by perennialist ideas of nationalism, where blood and culture were central to nation-making and nationalist identities.<sup>19</sup> Yet different from the Libyan Arabic Nationality Act of 1980, which considered *ius matrimonii*, *ius soli* and *ius sanguinis* as forms of citizenship right, Law No. 26 of 1975 in Sadat's Egypt considered the right of citizenship by *ius sanguinis*, *ius soli* and naturalisation only; thus excluding *ius matrimonii* as a form of citizenship right.

With the enactment of Law No.17 of 1954, Libyan nationality was tied to at least one of the following conditions: that the individual (i) was born in Libya, (ii) was born outside of Libya with one parent being Libyan-born, or (iii) was born outside of Libya but had resided in Libya, as an ordinary resident, for a period of not less than ten consecutive years at the time that the 1951 Constitution was adopted.<sup>20</sup> By contrast, Law No.18 of 1980 built on the Pan-

<sup>14</sup> Bronwe, D. 2003. 'Libya and the African Union', in Megan O' Meara ed., History Behind the Headlines, Vol. II. Gale Research Institute.

<sup>15</sup> See in this regard Anderson, L. 1997. *Political Islam: Revolution, radicalism, or reform*. Columbia University Press.

<sup>16</sup> Egypt Nationality Laws Act under Nasser was based upon Law No. 391 of 1956.

<sup>17</sup> Article 2 from Law No.17 of 1954 regulated access to Libyan nationality for those of Libyan origins but emigrated outside Libya and for those: (i) born in Libya or outside of Libya, and whose father or grandfather was a person born outside of Libya and one of his parents was Libyan-born or (ii) born outside of Libya and had resided in Libya, as a normal resident, for a period not less than ten consecutive years at the time that the 1951 Constitution was adopted

<sup>18</sup> See in this regard, Article 2 (a,b) from Law No.18 of 1980.

<sup>19</sup> Smith, A. D. 2001. *Nationalism: Theory, Ideology, History*. Cambridge: Polity.

<sup>20</sup> Law No.17 of 1954. Texts available from [http://citizenshiprightsafrika.org/wp-content/uploads/2016/01/Libya\\_Nationality\\_Act\\_Law\\_17-54\\_18-Apr-54.pdf](http://citizenshiprightsafrika.org/wp-content/uploads/2016/01/Libya_Nationality_Act_Law_17-54_18-Apr-54.pdf). Last accessed October 2020. At the core of Law N. 17 of 1954, nationality was granted to people residing in Libya on 1951 considered as a point zero since marking the independence from Italy. if they had been born in Libya, born abroad to a parent born in Libya, or had been living there for at least ten years (or five years for Arabs).



Arabist sentiment, and stipulated the following conditions for becoming Libyan: (i) individuals belonging to the Arab nations, (ii) women, only if married to Arab men, and (iii) age limits were introduced, thus excluding from the right to acquire citizenship applicants older than fifty years (Article 1, a-g)<sup>21</sup>.

If the determinant of gender ended up interfering with the right to Libyan citizenship in the Laws of 1954 and 1980, migration was no less problematic in connection with the making of a Libyan-Arab identity and in regulating the acquisition of citizenship. There was a discrepancy in the way the politicised law was referred to before and after 1969 from the perspectives of legitimation and ethnic-tribal divide.<sup>22</sup> When considering the migratory factor and the role it played in determining nationality, Article 2 of the Law of 1954 attempted to set out the basis for the acquisition of Libyan nationality by those who emigrated from Libya, stating that nationality would have been applied to those who emigrated prior to the enactment of the 1951 Constitution, which remains a turning point in the implementation of sovereignty. However, the Law of 1980 provided neither information nor details for those who emigrated after 1951.<sup>23</sup>

### 2.2.1 *Ius sanguinis*

From a historical perspective, under Law No.17 of 1954 the right to citizenship was extended to Libyans (defined as those who held Libyan nationality as regulated by Law No.17 of 1954) residing outside the territory provided that their relations with Libya were proved to the Judicial Committee. As for subsequent generations, citizenship by *ius sanguinis* became contingent on birth to a Libyan father, or on the Libyan territory if no other citizenship applied at birth (Law No.17 of 1954). Whilst Article 2(b) regulated the concession of citizenship to individuals within or outside Libya whose father or grandfather was Libyan, it did not provide information about the family line, and thus acquisition of citizenship, of mothers or grandmothers. Yet again, the law was indicative of a gender-tribal imbalance which was part of the societal fabric of that time and which projected from society to the judicial field and ultimately impacted on the access to nationality and indirectly fuelled forms of discrimination. This aspect is not less important when considering that the migration of women towards Libya was driven by economic factors, and that they eventually substantially participated in the national labour force. Unlike Law No.17 of 1954, Law No.18 of 1980 (amended in 1984) added the caveat about citizenship rights by *ius sanguinis* to children of non-Libyan and non-Arab women, who had acquired Arab nationality through hereditary birth. In such cases, the law foresaw no right to Arab nationality if children were born out of wedlock.<sup>24</sup> Article 5(a) of Law No.18 of 1980 regulated the passing of citizenship to children by Arab mothers married to non-citizens of the Socialist People's Libyan Arab Republic fathers.

### 2.2.2 *Ius soli*

As for *ius soli*, article 4 of the 1954 law stipulated that Libyan nationality applied to every person born in the country, unless the individual acquired a foreign nationality by birth. It

<sup>21</sup> Law No. 18 of 1980- inclusive of 1984 amendments.

<sup>22</sup> On the relevance of economic migration in Libya see 'Labour Market Dynamics in Libya', World Bank (2015). Link available from [World Bank Document](#). Last accessed December 2020.

<sup>23</sup> Art of Law No.17 of 1954

<sup>24</sup> Article 6 of Law No.17 of 1954 additionally regulated that any of the children may relinquish the Libyan nationality, upon submitting a request to the Minister of Exterior within one year from reaching the age of majority.

further provided that Libyan nationality thus lost could be restored upon reaching the age of majority by advising the Minister of Interior. Article 3 of Law No.17 of 1954 regulated the acquisition of citizenship for foundlings or stateless children, whereby a person born in Libya to a mother or father of unknown nationality, or a stateless father, would be recognised as a Libyan citizen.

### 2.2.3 *Ius matrimonii*

The acquisition of Libyan nationality by *ius matrimonii* was first regulated in Articles 7 and 8 of Law No.17 of 1954 which included the status of non-Libyan women. Citizenship by *ius matrimonii* was granted following the woman's renunciation of her foreign nationality. This provision remained unchanged in Law No.18 of 1980 (and the 1984 amendments).

Citizenship by *ius matrimonii*, was based on regulation of nationality in articles 5 and 6 of Law No.17 of 1954 stipulating that nationality to men would be granted unconditionally if the applicant had been resident in Libya for five consecutive years after the marriage (Article 4, a,b). Article 5(1)c further regulated that in the case of Libyan women married to non-Libyan men, nationality by naturalisation could be granted to children provided that they had met the requirement of residency for at least three consecutive years prior to the submission of the application for naturalisation (Law No.17 of 1954).

Furthermore, article 5(2)f of Law No.17 of 1954 posited the requirement of relinquishing foreign nationality, thus forbidding dual nationality and imposing allegiance to the People's Republic. The provision remained unchanged in article 5(c) of Law No.18 of 1980<sup>25</sup> although the law here provided guarantees not to have Arab nationality withdrawn at the termination of a marriage provided that it lasted more than 2 years. Amendments to article 6 introduced in 1980 and 1984 amendments to article 7(3) of Law No.18 of 1980 presented more details on the right to retain Arab nationality by Arab women married to non-Arab/non-Libyan men provided that the applicant (woman) had not been in possession of foreign nationality or renounced it<sup>26</sup>.

### 2.2.4. *Other forms of nationality by naturalisation*

Other forms of nationality by naturalisation applied to non-Libyans with no blood relations who were in possession of specific technical skills that would contribute to the enhancement of the country's interests (as per article 5 (1)d of Law No.17 of 1954). The regulation remained unchanged in the subsequent Nationality Law No.18 of 1980<sup>27</sup>.

<sup>25</sup> Article 5(c) contained an added clause stipulating the right for authorities to withdraw Arab nationality in the case of a marriage that did not continue for at least two years.

<sup>26</sup> Article 6 of Law No. 18 of 1980 regulated that "A woman who carries the Arabic Nationality, and marries a foreigner, shall retain her Arabic Nationality, unless she wished to acquire her husband's nationality, and the laws of her husband's nationality allow her to acquire his nationality. Notwithstanding, she may restore her Arabic Nationality in the event that the marriage is terminated, by notifying the Secretary of the General People's Committee for Justice, provided that she loses her foreign nationality" (Law No.18 of 1980).

Amendments to Article 7(3) of Law No.18 of 1980 in 1984 stipulated that "The Arabic nationality shall not be granted until its applicant has lost the nationality he carries. Notwithstanding, the applicant may be exempt from the condition of losing his nationality by a resolution from the General People's Committee, based upon the proposal of the General People's Committee for Justice including all the subjective reasons for requesting the referred exemption".

<sup>27</sup> Article 5(b) of Law No.18 of 1980.

## 2.3 Transformation of Principles Regulating the Revocation and Withdrawal of Citizenship Rights between 1954 and 1980

As regards the revocation and withdrawal of Libyan citizenship, Law No.17 of 1954 stipulated exceptions for keeping dual nationality if justified by a ‘good cause’ (despite the meaning of ‘good’ remaining subject to the Committee’s interpretation and thus extremely vague). However, both the 1954 and 1980 laws extended revocation of the right to nationality to the second-generation children of fathers whose citizenship was revoked.<sup>28</sup> In neither of the two nationality acts has there been a provision regarding the status of women.

The prerequisites for the loss of Libyan nationality before Gaddafi came to power included misconduct pertaining to the acquisition of Libyan nationality based upon false information or untruthful statements; conviction for crimes understood to be an act of disloyalty towards the nation; immoral acts; or behaving in a manner that contradicted the description of a Libyan citizen, thereby being in conflict the country’s interests (the definition of ‘interests’, however, remained vague). These provisions were amended in Law No.18 of 1980, which was premised on the idea of Arab-nationalism and the discursive construction of the perennialist idea of a homeland.<sup>29</sup>

The concept of acting against the homeland’s interests was expanded through Article 10 of Law No.18 of 1980. Article 10(b) added service in foreign armed forces without prior appropriate permission from the Libyan authorities, as well as absence from the country, as grounds for revocation. Different from Law No.17 of 1954, Article 10(c) in Law No.18 of 1980 for the first time included a reference to Zionism and identified Zionism as a legitimate premise for the revocation of Arab nationality.

The 1980 Law extended the bases for revoking Arab nationality. These included: the refusal to return to the homeland; acceptance of jobs with the goal of serving foreign authorities and their interests; departure from the homeland during the Great El-Fateh of the September revolution.<sup>30</sup> Moreover, unlike the 1954 Law, the 1980 the revocation of Arab nationality also applied to political asylum seeker status (Article 5, e). In this regard, the law provided for the revocation of Arab nationality of asylum seekers who resided in a foreign country<sup>31</sup>.

## 2.4 Citizenship and ethnic divisions before Gaddafi

In 1954, following the creation of the civil register, some issues emerged in the way determination of citizenship was implemented, especially as regards the exclusion of rural settlements and the nomadic population. An attempt to resolve these issues was made in 1960, when local committees were instructed to review the civil register with the intention of providing a more inclusive and comprehensive register compared to the 1954 one. Nevertheless, the ethnic mosaic on the Libyan territory once again was at the core of

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<sup>28</sup> Nevertheless, both laws (of 1954 and 1980) provided the grounds for the restoration of Libyan nationality, which in Law No.18 of 1980 was turned into Arabic for ideologically driven political and historical reasons linked to the shaping of Pan-Arab nationalism, as discussed in this report.

<sup>29</sup> Grosby, S.2015. ‘Myth and Symbol: the persistence of ethnicity and religion’, *Journal of the Association for the study of Ethnicity and Nationalism* 21(1):182-186.

<sup>30</sup> The Great Fateh referred to the 1969 Libyan coup carried out by the Free Officers Movement led by Gaddafi and which overthrew King Idris I.

<sup>31</sup> Article 10 originally foresaw the possibility of the revocation to be extended to family members. The clause was removed from Article 10 in Law No. 18 of 1980.

implementation challenges. The inability to provide proof of identity of certain tribes, such as the Berbers, Tuareg and the Tebu - the three communities for whom access to citizenship was problematic, made some Libyans fall outside the system<sup>32</sup>. The lack of identity papers was due to the tribes' inability to gain access to documents such as family booklets. In Libya, family booklets represented an essential document often used as proof of identity to gain access to citizenship rights. Members of minority communities unable to register as Libyans were therefore not entitled to access to state services like medical care, subsidised food and financial support, as well as higher education, housing and health care. However, under the former government, forging family booklets was common practice.<sup>33</sup>

When Gaddafi came to power through a coup, these gaps in the management of the 1954 Nationality Act by the political authorities gained salience. Gaddafi used the 1954 Nationality Law as a political and diplomatic tool for dividing the population and determining the citizenry for the creation of a Libyan-Arab nationality.<sup>34</sup> This in turn resulted in the exclusionary understanding of Libyan nationalism and tribalism characteristic of Gaddafi's era. This was reflected in the pan-Arabist, socialist ideology that influenced the amendments to Nationality Law No.18 of 1980. The latter made focused reference to the right to Arab citizenship as a premise for inclusion. However, the combination of the 1970s oil shock and the growing efforts of Libya to attract a labour force, were ultimately embedded in the 1980 amendments to favour economic immigration. While this had somewhat facilitated the grant of Libyan nationality to foreigners, in the domestic landscape exclusionary policies persisted.<sup>35</sup>

## 2.5 Gaddafi's pro- and anti-immigration discourse: politicisation of regional influences

In the 1970s, Libya first opened its borders to Arab migrants, mainly Egyptians and Tunisians. The new policy was also the result of the oil crisis which led to intra-Arab migration towards Gulf Cooperation Council countries and Libya in the 1970s. In the North African landscape Libya became a destination for Arab workers, including Egyptians, due to oil wealth. Nonetheless, since the 1970s Gaddafi started expelling migrants from Libya. In 1974, Tunisians who had emigrated to Libya were driven out of this country. Moreover, Egyptians were expelled, once oil revenues decreased and Libya-Egypt deteriorated in the 1980s.<sup>36</sup> The trigger for expulsion was the Libya-Egypt Four Day War and the suspension of diplomatic relations with Egypt under Hosni Mubarak until 1989.<sup>37</sup> Once the relations between the two countries improved in the 1990s, Egyptian workers started to return to Libya. Meanwhile, nationals from the Sub-Saharan region facilitated started to enter Libya in larger numbers, thanks to Gaddafi's open-door policy. Migration Policy Centre noted that, while the international community imposed an embargo on Libya, Gaddafi chose pan-Africanism as the new spearhead for his

<sup>32</sup> 'Tebu' is a collective term describing several closely related tribes that have lived in the area of what is now Libya, Chad and Niger for at least three thousand years.

<sup>33</sup> 'Civil Registry to introduce "Family Smart Card"', *Libya Herald*, 22 November 2014. <http://www.libyaherald.com/2014/11/22/civil-registry-to-introduce-family-smartcard/#axzz3JzIum500>. Last accessed December 2020.

<sup>34</sup> Tsourapas, G. 2020. 'The Migration State in the Global South Nationalizing, Developmental, and Neoliberal Models of Migration Management', *International Migration Review* 3.

<sup>35</sup> Bob Milliar, G. 2013. 'The politics of trans-Saharan transit migration in the Maghreb: Ghanaian migrants in Libya, c. 1980-2012', *African Review of Economics and Finance* 5(1):60-73.

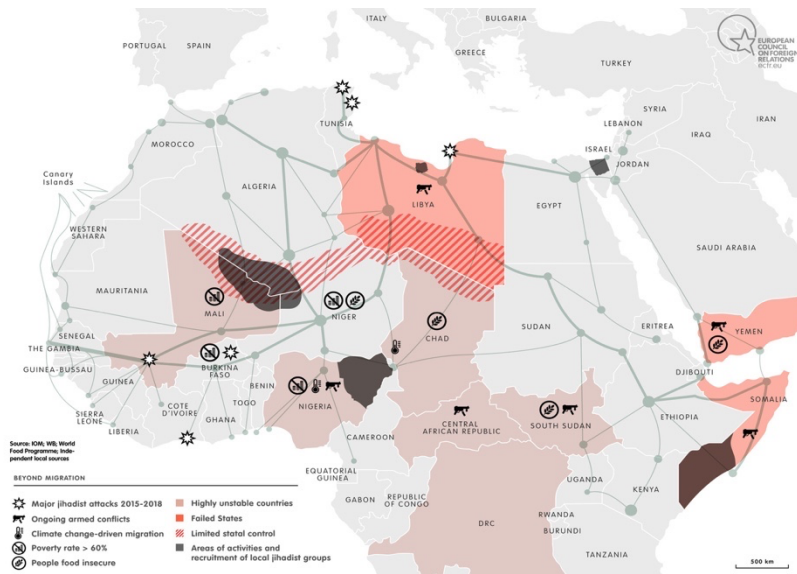
<sup>36</sup> See 'Egypt and Libya's Tumultuous Relations since 1969', *The African Report*, July 2020. Link available at <http://theafricareport.com>. Last accessed January 2020.

<sup>37</sup> Relations deteriorated after the Libyan-Egypt war in 1977 which consequently led to a 12-year suspension in the relations with improvements only in 1989.

foreign policy.<sup>38</sup> In that regard, the CEN-SAD (Community of Sahel States) was created with the aim of suppressing all obstacles to African unity and authorising the free movement of persons<sup>39</sup>. Even so, the entry and the stay of migrants in Libya has remained largely informal and subject to the arbitrary decisions of the Libyan police.<sup>40</sup>

Exclusionary policies led to the emergence of a new Sub-Saharan migratory route. Over the years, this route gained significance, especially in terms of migration from Mali and Nigeria, as well as Western and Central African states (mainly Senegal and Ghana). The image below illustrates the current internal south-north migratory routes in Africa and how they relate to Libya. Regardless of the route used, those coming to Libya form mixed migration flows, meaning that people with different backgrounds and motivations travel together along the same routes.

Fig. 1.1 Internal African migration towards Libya.<sup>41</sup>



About half of these migrants wish to remain in Libya, either temporarily- before returning to their countries of origin - or permanently. However, the complications in accessing the Libyan nationality, coupled with the lack of stability, rule of law, the economic crisis and widespread abuse provide important push factors for some migrants to continue their travel towards Europe. The current regulatory framework does not accommodate migrant integration for these groups. It does so, in part, for the refugees and asylum seekers already settled in Libya. In this regard Palestinians, Syrians and Iraqis who arrived many years or decades ago are employed and well-integrated, and usually live in northern urban centres.<sup>42</sup>

The discrepant approaches to migration and the limits of Pan-Arabist sentiment ultimately resulted in the regulation of nationality by means of Law No. 18 of 1980, whereby

<sup>38</sup> CARIM, 2011. Migration Profile Libya, Robert Schuman Centre, EUI. Migration profile EN 2011 Libya (eui.eu). Last accessed January 2021.

<sup>39</sup> See on this regard Neighbourhood Migration in Libya, 2013. Link available from [EU NEIGHBOURHOOD MIGRATION REPORT 2013 - LIBYA](https://www.euro-migration.eu/NEIGHBOURHOOD-MIGRATION-REPORT-2013-LIBYA) (migrationpolicycentre.eu). Last accessed December 2020.

<sup>40</sup> European Institute for Peace, 2019. 'Citizenship on hold: Undetermined legal status and implications for Libya's peace process'. Citizenship-onhold-EIP-policy-paper-July-2019.pdf. Last accessed January 2021.

<sup>41</sup> Image source: European Council on Foreign Relations, 2018. Last accessed December 2020. Link available from [Migration through the Mediterranean: Mapping the EU response – European Council on Foreign Relations \(ecfr.eu\)](https://www.ecfr.eu/)

<sup>42</sup> UNHCR 2017.

Sub-Saharan population was prevented from being recognised with Libyan or Arabic nationality.

### *2.5.1 Politicisation of Nationality Law of 1980 and the internal divide*

Although Law No.18 of 1980 set the conditions for nationality and citizenship rights based on a shared Arabic identity, the Pan-Arabist/socialist ideology clashed with the nature of the Libyan social composition. Libyan legislation offered formal pathways to citizenship, starting from the early 1970s. Even so, people claiming Libyan nationality based on their ancestry faced complications in that they were required to be registered on a special list that existed alongside the civil register. This list was based on a discretionary principle of approval.<sup>43</sup> Gaddafi's regime established special committees not with the task of approving claims, but rather of dismissing them. As such, the regime's ambiguous approach to the recognition of Libyan citizenship in the end interfered with the very definition of citizenship. This arbitrariness protracted into post-2013 period due to unresolved tribal divisions and struggles over territorial control.

Against this backdrop, the seemingly liberalised Nationality Law of 1980 ultimately resulted in the creation of a two-class system. Arab immigrants and returnees from exile were initially able to obtain Libyan Arab citizenship. However, once Law No.24 of 2010 on Citizenship - the purpose of which was to address the discrepancies found in Law No.18 of 1980 - was adopted these persons were left stranded, and thus stateless.

Citizenship by naturalisation under Gaddafi unearths discrepancies between the pro-immigration discourse - which fulfilled economic purposes especially before the oil shocks - and the exclusionary policies that emerged soon after. The tribal component in the making of Libyan nationality and nationalism was central to the political discourse on migration and access to citizenship. Political calculus and social resistance by tribes (Imazighen, Tuareg and Tebu) on the other, have been behind the exclusionary policies in the Law of 1980. This is the case since Libyan nationalism was more rooted in cultural values, a myth-symbol complex and territorialism.<sup>44</sup> From a bottom-up perspective, natives started rejecting the idea of recognising immigrants as Libyan citizens by naturalisation. Hence, societal-tribal clashes ended up interfering with and affecting local committees' decisions on the outcomes of nationality claims. In other words, the process of naturalisation was extensively influenced and curbed by the paradox of favouritism for some, and the practice of discrimination for the other, especially on ethnic grounds. The 2011 Libyan Revolution did not resolve these issues.

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<sup>43</sup> Unfortunately, there are no available and accessible sources on the names of the list and when it was compiled.

<sup>44</sup> European Institute for Peace (2019).

### 3. Current citizenship regime

#### 3.1 The main modes of acquisition and loss of nationality under Law No. 24 of 2010/1378

Overall, the existing procedures, as based on the still valid Law No. 24 of 2010/1378, provide three main avenues for acquiring nationality: *ius soli*, *ius sanguinis a pater* and naturalisation.

##### 3.1.1 *Ius soli*

Acquisition of Libyan citizenship at birth by *ius soli* exists only for foundlings, i.e. persons born to unknown parents.

##### 3.1.2 *Ius sanguinis a pater*

As in in a number of other Middle East and North African countries, the *ius sanguinis* conferral of nationality to children is mostly patrilineal - with the gender discrimination still unresolved. However, both the Law No.18 of 1980 and the Libyan Nationality Law of 2010 (article 11) contain contradictory provisions which seem to constitute an exception for women to pass on nationality, if married to non-Libyan father. These provisions have been intended as a safeguard against statelessness.

##### 3.1.3 *Naturalisation*

Article 9(3) of the 2010 Nationality Law regulates ordinary, residence-based naturalisation. Individuals who have lived in Libya for 10 years, have an income, are of good character, in physical health, under 50 years old and fulfil any other condition deemed relevant to the public interest are eligible to become Libyan citizens. As per article 10 (2-3) of the same law female spouse of a male national can acquire facilitated naturalisation after 2 years of marriage. Article 10 also lays the grounds for the fully discretionary acquisition of citizenship on the basis on national interest.

#### 3.2. Withdrawal of nationality

The question of loss and withdrawal of nationality is somewhat ambiguous under Libyan law. Natural-born citizens of Libya cannot renounce their nationality. Provisions in law do not specifically refer to the possibility of withdrawing Libyan nationality to those who acquired it through parentage.

By contrast, under Article 13(1) of Law No.24 of 2010 nationality of naturalised Libyans can be revoked if the person acted against the interests of Libya within 10 years from naturalisation. Within the same time period (10 years), under Article 13(2), nationality can be revoked from those who resided for 2 years outside Libya without authorisation.

Those who acquired Libyan nationality “based on false information, fraudulent documents or no disclosure of information related to his nationality” as well as children of

fathers to whom this provision would apply could have their Libyan nationality stripped under article 12 of Law No.24 of 2010.

The draft 2017 Constitutions seems to reiterate these principles, stating that Libyan nationality shall not be revoked for any reason. It is permissible to withdraw it from whoever acquired it within ten years following its acquisition.

### 3.3. Dual nationality

The matter of dual nationality in Libya is unclear. As per Article 5 of the Citizenship Law No.24 of 2010, it is subject to the approval of the General Popular Committee for the General Security. However, the constitutional draft of 2017 was in favour of dual nationality, especially for emigrants. In fact, Article 10 from the 2017 Libyan draft constitution notes that “the law shall take into consideration the national interest, preservation of the demographic composition, and ease of integration into the Libyan society. Libyan nationality may not be revoked for any reason whatsoever”.<sup>45</sup> Reference in the constitutional text and the Nationality Law both refer to Libyans by birth.

### 3.4. Discussion of the current citizenship regime

Most issues related to the acquisition and withdrawal of Libyan nationality relate to a set of extra-judicial determinants such as ethnic components, internal and international migration over the past decades and years, bilateral relations with former colonisers (i.e., Italy) and tribal links to Gaddafi’s political purposes. To garner support amongst southern communities during the uprisings, Gaddafi issued orders related to nationality, which mainly targeted the Tuareg.

Against this backdrop, Law No. 24 of 2010 embedded adjustments and processes that expanded the right to gain the Libyan nationality. Despite some improvements, some legal discrepancies remained unaddressed. Today, these may represent a possible pretext for the continuation of internal sectarian politics over access to citizenship.

Different from other nationality laws in nearby countries (e.g., Tunisia, Algeria, and Egypt), Libyan citizenship reform of the mid-2000s and the Law of 2010 did consider citizenship by *ius soli* for children born to Libyan mothers, if the father was non-Libyan. As noted above, the 2010 Law retained the regulation for the acquisition of citizenship by birth to those born of unknown or stateless parents (mother/father).

Substantially, since 2010, conditions no longer include the ‘morality’ of the applicant in terms of actions against “the interests of the Arab nation” (although laws do not provide an explanation for the meaning of the concept of interests). Rather, the acquisition is premised on the absence of criminal eviction and penal conduct.

Despite amendments which in theory simplified the process of acquisition of nationality, the regulation of legal status for tribes in Libya remained unresolved. No effort has

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<sup>45</sup> Toaldo (2017) notes that the draft constitution has been approved without broad consultation or public debate, and the CDA itself was elected three and half years ago with an extremely low voter turnout—less than 50 percent of registered voters, who themselves comprised only one-sixth of the Libyan population—and since then has barely consulted with civil society and political actors. In this regard Toaldo reminds that the three most prominent minorities—Tebu, Tuareg, and Amazigh—had little representation in the CDA.



been made in the 2010 law to redress this. Only in March 2011, after the Gaddafi was overthrown, the citizenship claims of over 5,600 Tuareg had been approved by cabinet decree No. 13.<sup>46</sup> As result of the decree, during the transition process, and more precisely between 2011 and 2013, many Tebu – akin to Tuareg – also succeeded in regularising their legal status in Libyan territory. Regardless of this achievement, the undefined status of other populations deteriorated after 2011, as a result not only of administrative reforms, but also of changes to patronage networks. In effect, the situation of Tuareg is not yet fully completely resolved. Many from the south-western areas of Ubari, Ghat and from Sabha district do not have access to citizenship.

Since the 2011 Libyan Revolution, undetermined legal status has affected the lives of more people in more ways than it did under the previous regime. The migratory flows from the south and from nearby countries intensified the presence of non-Libyans in the territory, especially in the north. This has also complicated the claims of those who have been long-term stateless in the country. This is mainly the outcome of the National Number reform of 2013 which divided the population into those ‘with’ numbers and those ‘without’ them.

In 2012 the National Transitional Council’s government (NTC) opted to suspend the processing of existing citizenship claims prior to its dissolution on the same year. In 2013, the General National Congress (GNC) reintroduced the national number system which established that each Libyan would have a personal identification number designed to become the hallmark for granting Libyan citizenship. Expanding on the national number system principle, persons registered on parallel lists, or unregistered, or whose documents had been cancelled, became ineligible to apply for a national number. Thus, protests occurred amongst those excluded from the regulations. The Tuareg tribe again found they were affected by the new regulation, leading to sit-ins and other manifestations against the limitation/exclusionary policy.<sup>47</sup> To quell clashes between the authorities and the Tuareg, the Government of National Coalitions opted to approve a temporary measure, issuing what was called a ‘temporary administrative number’, which was partially suspended after a period of time as ineffective.<sup>48</sup> The introduction of this second category of number, in addition to the national number, allowed previously excluded segments of society to have some form of social assistance (e.g., civil rights such as access to salaries and basic services). However, discontent about the temporary administrative number led to the rise of an Anti-Discrimination Movement, which in 2021 carried out a series of public demonstration calling for the regulation of the status of those holding the so-referred ‘temporary administrative number’.

Taking a strict ethno-symbolist perspective in looking at Libyan nationalism and the making of citizenship, the relevance of political recognition can be found in the dismantling of the myth-symbol complex. However, building on the current nationality law which has remained unchanged since 2010, it is possible to distinguish two categories of people affected by the citizenship issue. Both of them arguably fall under the definition of ‘undetermined legal status’ which created fragmentations internal to the citizenship system. These are:

- First, the category which consists of people unable to obtain a national number due to their type of registration and lack of documentation.

This category includes (i) Sahelian Tuareg, (ii) Arab returnees from exile and (iii) foreign nationals who used to benefit from Libyan Arab Citizenship status. According to recent

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<sup>46</sup> Decree No.53 by the General’s People Committee, issued March 2011. Statistics on the number of Tuareg and Tebu who accessed citizenship since March 2011 decree No. 53 are unavailable.

<sup>47</sup> Jalali, M., 2013. *Tuareg migration: A critical component of crisis in the Sahel*. Washington, DC: Migration Policy Institute, 30.

<sup>48</sup> European Institute for Peace (2019).

statistics, there are around 14,000 Tuareg families who have been awaiting naturalisation since the 1980s.<sup>49</sup> As for Arab returnees from exile nearly 27,000 families from across the Fezzan are listed on the civil register in Sebha as Arab persons of undetermined legal status or “files in progress”.<sup>50</sup> This category also comprises smaller numbers of Tebu who are without valid documentation.

- Second, people of undetermined legal status who have in fact been able to obtain national numbers, but whose recognition remains disputed by other (native) Libyans and parts of the state administration. This confirms the persistence of extra-judicial ethnic discrimination, especially since this second category still pertains primarily to Tebu tribe. If adopted, the 2017 draft Libyan constitution could resolve this issue, unless internal tribal interfere with the process.

Legal ambiguity left the non-citizens feeling unwanted and unaccepted by Libyan authorities. From the perspective of native Libyans, the perception toward non-citizens harked back to the Gaddafi era. This backlash ultimately connected to the long-term struggles in post-2011 settings to create a form of ethnic and cultural integration under the idea of ‘Libyanness’.

The historical, social, legal, and political focus on the transformation, acquisition, and withdrawal of a legal status in Libya has culminated in communal violence and unresolved conflicts. Developing the reality of undetermined legal status for tribes, has had an impact on the current political processes. The absence of legal status prevents people from participating in formal political life. As result of the legal barriers to political participation, the much sought-after process of transitioning to a more inclusive, if not more ‘democratised’ process, in decision-making is obstructed. In the 2012 general elections, subjects of undetermined legal status were granted an opportunity to participate as there was a political need for flexibility after the 2011 turmoil. Even so, in Tebu were disqualified from voting, which indicates that there has been no improvement from the pre-Gaddafi settings and the treatment of Tebu.<sup>51</sup> In 2014, voting rights became conditional upon the ‘national number’, leading to the revival of exclusionary practices.

## 4. Current political debates

### 4.1 Current political debates and reform plans

There are several current salient debates around access to citizenship status and rights: first, the issues related to the National Identification Number and Cards (NID), and second, the voter registration system. The two issues are interrelated.

In February 2013, the Libyan government announced its plan to build a new national information infrastructure or database, the NID system. At the core of the NID lay the intention of decentralising to local municipalities the civil registers comprising family books and records. The creation of the NID was intended as a tool for simplifying the application procedure for obtaining civil documents, and thus accessing citizenship rights by gaining an administrative number.

<sup>49</sup> European Institute for Peace (2019).

<sup>50</sup> European Institute for Peace (2019), pp. 9-12

<sup>51</sup> European Institute for Peace (2019).

In 2018, Tuareg rights' activists appealed to the electoral commission to reopen voter registration for those with administrative numbers. Most Sahelian Tuareg have since been given administrative numbers as part of a set of concessions.<sup>52</sup> That was done with the purpose of reintroducing the voting rights for tribes in the next round of elections.<sup>53</sup> While citizens in the South are entitled to vote, the exclusion of large segments of tribes or communities clearly reduces their overall political voice and thus mirrors the ethnic-tribal divide over the right to access Libyan nationality and citizenship.

The citizenship issue also impacts on political processes since persons of undetermined legal status cannot take part in formal political life as they are not eligible to vote or stand for elections. This further reduces the southern communities' investment in more inclusive processes and bolsters informal decision-making<sup>54</sup>. Aside from elections, populations with undetermined legal status have not played a visible role in post-2011 national-level peace talks and lack a common platform to bring forth their demands and influence decisions<sup>55</sup>. Instead, decision-making processes rely primarily on top-hierarchical social actors, such as tribal elders and councils, as well as elected representatives of their tribe and community to advocate for their cause<sup>56</sup>.

#### 4.2 2017 Constitutional draft and the issue of citizenship

The three core modes of access to nationality, have remained unchanged since 1954. However, the 2017 constitutional draft attempted to provide more detail on regulating the acquisition or withdrawal of citizenship, in an attempt to bridge internal clashes and address the status of claims and grants. However, the provisions included in the 2017 draft constitution did not replace the existing Law No. 24. In this regard, Article 12 on nationality from the 2017 constitutional draft made no meaningful change when compared with the provisions set out in Law No. 24 of 2010/1378. However, Article 13, on the right to acquire Libyan nationality, attempted to bridge the gender disparity of the Nationality Law Act of 2010 by stipulating equal rights to *ius sanguinis* for children of Libyan mothers. As for the minimum period of residence in Libya to have citizenship granted, it was proposed that this be increased from 10 to 15 years. The acquisition of citizenship based on exceptional skills relevant to the country's interest remained intact, thus marking a continuum since 1954 post-independence legislation on citizenship and nationality.

A novelty was instead added to the provision included in Article 14 regarding the withdrawal of Libyan citizenship. Nationality of natural born Libyans could not be revoked for any reason, while those who acquired it (through naturalisation) could have it revoked within ten years from becoming Libyan nationals. Yet the 2017 constitution draft did not provide clarification about whether past decrees, which followed separately from enacted laws, should remain in force. This raised questions of legal hierarchy.

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<sup>52</sup> European Institute for Peace (2019), pp.15-16.

<sup>53</sup> European Institute for Peace (2019).

<sup>54</sup> In this regard in 2018 that the decline in embracing democratic norms was predicted in an early survey conducted in 2012 by the University of Benghazi and Oxford University. It was found that out of the 2,000 people polled in Libya, only 15 per cent supported the implementation of a democratic system in 2013. Around 40 per cent backed strong leadership by one person and 16 per cent stated that they were prepared to resort to violence in order to reach political goals.

<sup>55</sup> European Institute for Peace (2019).

<sup>56</sup> European Institute for Peace (2019).

The draft was approved in its final version in July 2017 by the Constitution Drafting Assembly. An additional caveat in 2019 addressed more clearly the issue of citizenship and nationality in Articles 9-14, although discrepancies still remain. For example, there was political and social obligation to make the conditions for access to Libyan citizenship clear, and to define who is or is not eligible. However, the 2017 draft constitution was criticised for not having accommodated domestic ethnic diversities. At the core of the constitutional contention lies the fact that ethnic division grew along language and cultural divides. In a joint declaration, Tebu Constitution Drafting Assembly (CDA) members rejected the 2017 draft constitution. Only one Tuareg member of Constitution Drafting Assembly voted in favour of the final draft whilst other Tuareg members (akin to the Tebu tribe) opted to abstain from voting in July 2017. Following allegations of irregularities from the CDA, the status of the 2017 draft was questioned.

However, the escalation in the internal war between general Haftar's Libyan National Army externally supported by Egypt and the United Arab Emirates opposing the UN supported Faiez Al Serraj's Government of National Accord in 2019 disrupted the timeline for constitutional reform. In turn, this halted the reform of citizenship. Citizenship status, with all the gaps embedded in it since 1954 up to 2019, marks the political need to reduce the impact of conflict on livelihoods and stability. This is especially the case in the south of the country, as set out in this report, has been and still is today at the centre of major tribal tensions and divisions.

## 5. Conclusions

Taking a comparative and historical approach to the evolution of Libyan citizenship, this report discussed the acquisition and loss of the status Libyan nationality and citizenship rights. It highlighted the limitations of Pan-Africanism in the making of the Libyan nation. The idea of a Libyan nation, despite the resonating ideology of Pan-Arabism remained rigidly influenced by sectarian and tribal divides. The acquisition and withdrawal of nationality, therefore, was strongly influenced by internal tribal clashes over territories.

In the case of Libya, the idea of nationality was tied to a perennialist understanding of the nation as anchored to cultural values and the "myth-symbol" complex applied to understanding nationalisms and national identity.<sup>57</sup> Ethno-symbolism thus extensively interfered with the state concession of citizenship to tribes like the Amazigh, Tebu and Tuareg. The creation of a NID attempted to bypass the politics of exclusion. Nonetheless, the Tuareg and Tebu remained subject to restrictions.

Recent developments include significant change is the right to dual nationality, which under the current regime law is subject to case-by-case review by the judicial committee.<sup>58</sup> The 2011 Libyan Civil War has not introduced major changes to the 2010 regulation of citizenship. This was attempted in the 2017 draft constitution, and in particular as regards gender equality. As of April 2021, the draft has not been adopted. The complexities over nationality and right to recognition as citizens, coupled with an unprecedented internal displacement of people, remain closely intertwined with the stability of the country.

<sup>57</sup> Kaufman, S.J., 2001. *Modern hatreds: The symbolic politics of ethnic war*. Cornell University Press, p. 25.

<sup>58</sup> Article 5 from Law No.24 of 2010 stipulates that "Loss the Libyan nationality whoever acquired a foreign nationality without the approval of the General Popular Committee for the General Security".

