



**Citizenship on hold:  
Undetermined legal status and  
implications for Libya's peace process**

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This paper draws on extensive research, involving a review of Libyan legislation, official statements, media reports and academic literature, as well as approximately 30 interviews with local officials, academics, elders, activists and youth, some of undetermined legal status. Most interviews were conducted between April and September 2018 by the author and two field researchers based in South Libya. This fed into a larger report written for Mercy Corps with the support of their research team, which focused on the implications of undetermined legal status for livelihoods and living conditions and has been shared with humanitarian actors. Complementary to this first output, the present policy paper was written with additional research conducted in April 2019. The author would like to express her great appreciation to all those who generously shared their views and insights, to the field researchers for their valuable assistance, and to Mercy Corps and the European Institute of Peace for making this research possible.

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## Introduction

Amid Libya's ongoing crisis, unresolved disputes over citizenship haunt society and the fragile state. A significant number of people in Libya – presumably several hundred thousand – are not formally recognized as citizens, despite considering themselves as such.<sup>1</sup> Commonly referred to as “persons of undetermined legal status”, the majority are first- or second-generation immigrants whose naturalisation process is on hold. A smaller amount consists of native inhabitants who have not been recognised by the state, as well as a group of people whose citizenship was revoked. Although they are registered with the authorities, their status does not guarantee them civil rights, thus curtailing their access to essential paperwork, public services and employment.

The issue is of national concern and there are people affected by it across the country; however, it is of particular magnitude in the South of the country, where it feeds instability. After being on hold for decades, the citizenship file has recently been reopened through the draft constitution, and administrative authorities have taken a renewed interest. This provides a window of opportunity to revisit the causes of disputed citizenship and promote a problem-solving approach based on consultations and social dialogue, to mitigate the risk of further destabilisation.

This policy paper aims to provide an overview of citizenship-related grievances in Libya and approaches to address these. Focussing on the situation in the southern region, it explains how citizenship disputes relate to Libya's troubled transition. The first section retraces the historical circumstances that led to undetermined legal statuses. Section two provides an overview of affected groups and the obstacles they face. This is followed, in the third section, by the ramifications of the issue in terms of security, peace, and political processes. Section four outlines how the proposed constitution intends to tackle undetermined legal statuses, how this has been received, and what obstacles there are to implementing provisions. The fifth section presents conclusions and challenges that lie ahead, after which the paper proposes recommendations to current and future Libyan authorities and international community actors on how to best address undetermined legal status.

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<sup>1</sup> Estimates vary and official figures are both insufficiently available and unreliable. Section two of the paper provides further explanation and a breakdown of figures by ethnicity.

## 1. A brief history of disputed citizenship

Libya's contemporary citizenship conundrum cannot be dissociated from its modern history. The disagreement over who qualifies as Libyan citizen is rooted in the colonial past and the 1951 state creation, and was later exacerbated by Muammar Gadhafi's use of citizenship for political ends. Libya's borders were originally drawn on the basis of territorial acquisitions and treaties between competing empires, which split indigenous populations' homelands. The repercussions are particularly visible in the southern region, where borders remain porous and cross-border ties strong. Independence struggles and tribal wars also led to mass displacement, with hundreds of thousands of Libyans forced into exile during the Ottoman and Italian occupation.<sup>2</sup> When people claiming descent from exile settled in Libya in the latter half of the 20th century, it was framed as a "return to the homeland". Libya is by no means unique in terms of complicated colonial legacy, but these factors require mentioning as they are of direct relevance to the subject matter.

### **The monarchy (1951-1969): birth of Libyan citizenship and undetermined status**

As the Kingdom of Libya achieved independence, the foundations for citizenship were laid by the 1951 Constitution and the 1954 Citizenship Law. These texts defined who was to be considered Libyan among the people inhabiting the territory, as well as those connected to it through ancestry. The date on which the Constitution was adopted – 7 October 1951 – was set as "point zero". Citizenship was granted to people residing in Libya on this date 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). Taking into account the aforementioned historical factors, the law also offered the possibility of obtaining citizenship to people residing outside Libya at the time, if they could prove "Libyan origins": having been born in Libya or to a parent or grandparent born in Libya. As for subsequent generations, citizenship became contingent on birth to a Libyan father, or on the territory if no other citizenship applied at birth. Further provisions regulated the naturalisation of foreigners with no Libyan origins.

In 1954, the royal administration conducted a national population census, which generated the civil register. The census takers did not, however, reach all rural settlements, especially in the far South. People with nomadic lifestyles were not necessarily present during the census: others did know or care about registering. In the late-1960s, local committees were instructed to review and update census lists, and to register Libyans who had not been counted before. However, not everybody was able to present proof of birthplace and residence, and committees tended to work on the basis of tribal declarations, with little guarantee of impartiality. As a result of these factors, a first set of Libyans fell outside the system, particularly among the Tebu and Tuareg in the South. Without civil registration they could not obtain

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<sup>2</sup> An estimated 250,000 during the Italian period alone. See Abdullatif A. Ahmida, *The Making of Modern Libya*, State University of New York Press, 2009.

essential documents. The most common document they lacked was a family booklet, which lists members of a family and domestically serves as proof of citizenship and identity. Off to a difficult start, the situation was further complicated after Gadhafi came to power in 1969 and used citizenship as a political tool.

### **The Gadhafi era (1969-2011): citizenship instrumentalised**

Under Gadhafi, manipulative and inconsistent naturalisation policies left further groups of people with undetermined legal status. Immigration to Libya had begun during the monarchy, spurred by the development of the oil industry. It accelerated after 1969 as a result of the new regime's open-door immigration policy and its calls on Arabs with Libyan roots to return to the homeland.

The possibility of "return from exile" for people of Libyan ancestry motivated large numbers of people in neighbouring countries to relocate to Libya. Immigration was largely organized along tribal lines, with returnees settling in areas dominated by their respective tribe. In the East, they were usually from the Awlad Ali and Jawazi tribes, which straddle the Libyan-Egyptian borderland and many of whom had been pushed into Egypt during the Ottoman era. In the Fezzan region, this pertained to Gadhafu, Warfalla, Awlad Suliman, Hassawna and Mahamid – tribes with a historical presence in Libya as well as extensions in the Sahel region, primarily Chad and Niger. The regime also welcomed Tuareg from Niger, Mali and other Sahel countries, as well as labour migrants from "brotherly Arab nations".

Arrivals peaked in the 1980s, a period in which the regime invested great resources in transforming the Libyan state and society. The added manpower was absorbed by large-scale public sector recruitment and ambitious infrastructure projects, as well as by extensive military recruitment and training. In exchange for labour and loyalty to the regime, immigrants were promised opportunities and swift naturalisation.

Immigration was also tied to Gadhafi's geopolitical ambitions and regional policies. Starting with the Islamic Legion in the 1970s, he had young men from disenfranchised communities across the Sahel-Saharan zone recruited, trained in Libyan camps, and sent to fight on foreign theatres of war, from Chad to Lebanon. With Libya as their rear base, many of the Tuareg legionaries went on to join rebellions in Niger and Mali. Encouraged by Gadhafi, Sahelian Tuareg brought their families to settle down in Libya. The vast majority of them were registered in Libya but failed to obtain citizenship.

Libya's protracted war with Chad also created cases of undetermined legal status. The regime's annexation of the Aouzou strip on the border with Chad in 1975 entailed the naturalisation of Tebu residents. In 1994, when Libya lost sovereignty over Aouzou and withdrew, inhabitants

of the isolated territory had no control over their collective destiny.<sup>3</sup> Many of those registered as "Aouzou Libyans" had already left to Libya proper, and others followed after 1994. This was initially welcomed by the regime, which allowed people to transfer their civil registration to Murzuq or Kufra. Within a few years the official stance changed. With Circular 13 of 1996, "Aouzou registrants" were collectively declared foreigners.<sup>4</sup> This included not only natives of Aouzou but also a number of Tebu from other parts of Libya whom the regime had pushed to register in the strip when it was under Libyan administration. Henceforth, these people no longer enjoyed civil rights, and many had their documents confiscated.

In theory, Libyan legislation offered formal pathways to citizenship. From the early 1970s onward, people claiming citizenship based on Libyan ancestry were registered on special lists parallel to the citizen register, pending approval. But ever-changing laws and regulations subsequently obscured requirements and procedures for naturalisation. In a sheer endless loop, the regime formed committees to collect and process claims, only to dissolve them later. Even the definition of citizenship was changed. In 1980, the 1954 Citizenship Law – though not repealed until 2010 – was de-facto overruled with Law 18, which re-baptised Libyan citizenship as "Arab citizenship", henceforth applicable to all Libyans and available to anyone from the Arab *umma* (nation) coming to live in Libya. While stipulating the "same rights for all", Law 18 resulted in a two-class system. Arab immigrants and returnees from exile were able to obtain Libyan Arab citizenship but were left stranded when the status was abolished through the 2010 Citizenship Law, which replaced previous legislation. As these people applied to become "regular" Libyan citizens (possible for those with Libyan origins), another round of procedures started, no less opaque than previous rounds.

The discrepancy between the Gadhafi regime's pro-immigration discourse, on the one hand, and the hurdles imposed on people seeking naturalisation is perplexing. Interviewees attributed it to a variety of factors, including political calculus, societal resistance and institutional dysfunction. Undoubtedly, convoluted bureaucracy posed a challenge to applicants and administrators alike. Based on circulars, letters or memos with unclear legal validity, administrative practice was arbitrary, and enforcement varied between districts. Tribal rivalries and communal tensions played into national decision-making, as many "native" residents rejected the idea of immigrant groups being naturalised. For instance, some of the decisions targeting Tebu originated in Kufra, where they were drafted by local officials from

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<sup>3</sup> Until today, many non-Tebu Libyans maintain that a referendum was held in Aouzou at this point, and that inhabitants of the territory decided to become subjects of Chad. This claim is not only refuted by Tebu but also not corroborated by documents of the time, such as the reports of the United Nations Aouzou Strip Observer Group (UNASOG) and the International Court of Justice's [judgement](#) on the territorial dispute between Libya and Chad. Moreover, Libya's plea to the court stated that the "indigenous peoples were, at all relevant times, religiously, culturally, economically and politically part of the Libyan peoples". See International Court of Justice, Territorial Dispute (Libya v. Chad), 1994, I.C.J. 7 (Feb 3), [available here](#).

<sup>4</sup> The circular (تعميم) was issued by the Secretary of People's Congresses Affairs at the General People's Congress (Gadhafi-era legislature). The Secretary was also a military intelligence officer and Gadhafi relative.

the Zway tribe. When committees were set up at the local level to evaluate claims, they were influenced by such rivalries.

Naturalisation was also curbed by favouritism and discrimination on tribal and ethnic grounds. Personal connections often determined whether a family was naturalised. Returnees from certain tribes, in particular the Gadhafda, were privileged through their place within the ruling system. The regime's Arab nationalist prism left non-Arab ethnic groups sidelined. Sahelian Tuareg immigrants, who tend to define themselves as returnees from exile and natives of the land but are not considered as such by others, were required to present proof of "Libyan Arab origins".

Beneath this rhetoric, the approval of a claim ultimately hinged on regime security services, which based their decision on other criteria. According to one interpretation, Gadhafi deliberately stalled citizenship claims in order to utilise the sizeable Sahelian Tuareg community residing in Libya as a bargaining chip in Libya's relations with Algeria, Niger and Mali, and for his pursuit of regional clout, including through the Community of Sahel-Saharan States (CEN-SAD). The regime went as far as to threaten neighboring states with mass expulsion of Libya-based Tuareg, playing on their fear of internal destabilisation.<sup>5</sup>

Ultimately, the role of Gadhafi and his inner circle in creating and maintaining undetermined statuses is a matter of speculation. At the very least the regime did not prioritise resolving the issue, keeping tens – if not hundreds – of thousands of people in a legal limbo. Some, such as the Aouzou residents, lost access to documentation and public services. Others had access to temporary paperwork, were allowed to work, and benefited from public services. Some had their status regularised, but in 2011 a large number of cases remained "in progress" – a term still used by the administration today.

### **Post-Gadhafi (2011-present): the uprising and its fallouts**

During the uprising, the Gadhafi regime hastily tackled several outstanding issues in order to garner support among southern communities. In March 2011, a cabinet decree approved the citizenship claims of over 5,600 Tuareg, which had been pending.<sup>6</sup> Overturning Circular 13 from 1996, the cabinet also re-categorized Aouzou registrants as Libyan citizens and instructed administrative bodies to reactivate their files.<sup>7</sup> It has also been alleged that citizenship and identity documents were handed out to foreign mercenaries in reward for backing up regime forces against the rebels. These measures demonstrated the regime's discretionary power to

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<sup>5</sup> Author interview with Tuareg peace mediator and former senior government official, Tunis, June 2019

<sup>6</sup> Decree 53 by the General People's Committee (Cabinet) issued on 4 March 2011.

<sup>7</sup> Letter 743 by the General People's Committee to the People's Committee (Ministry) of Public Security, issued on 23 May 2011. It stated that Tebu from the Aouzou register who remained in Libya are to be considered Libyans and to be issued family booklets, identity cards and other documents.

grant and withhold citizenship and had problematic implications for the aftermath. Many Tebu, in particular, were able to regularise their status between 2011 and 2013. There are now plans to reverse this process.

Overall, populations of undetermined status saw their situation deteriorate after 2011, as a result of administrative reform and changing patronage networks. Aside from the draft constitution, which is yet to be passed, post-Gadhafi national authorities made no attempts to tackle the core of the matter, arguing that doing so would destabilise the transition. Instead, they resorted to short-term measures, curtailing and granting rights in response to social pressure. In 2012, for example, the National Transitional Council's (NTC) government suspended the processing of existing citizenship claims ("in progress" files) and the accepting of new claims. In 2013, the General National Congress (GNC) implemented the "national number" system. Under this system, every Libyan is meant to have a unique personal identification number, which became the new hallmark of citizenship. People that were registered on parallel lists (pending naturalisation), unregistered, or with cancelled documents were not eligible for a national number. Their situation changed from legal ambiguity with varying degrees of de-facto recognition to unambiguous exclusion from citizenship and its associated rights.

There was a severe backlash to the creation of the national number from groups that were excluded. For instance, Sahelian Tuareg expressed their outrage through sit-ins at oil facilities. The GNC's Interim Government responded by introducing the administrative number – a temporary form of registration – to enable people ineligible for a national number to continue accessing salaries and services. In 2014 and 2015, administrative numbers were allocated to registered Tuareg and Arabs of undetermined legal status, as well as to foreign nationals employed by the Libyan state. The system brought some relief to registrants but lacked oversight and was partially suspended after a period of time. As it did not tackle the underlying legal and historical issue, it was widely seen as an inadequate appeasement strategy among affected populations.

Meanwhile, the debate about undetermined legal status became overshadowed by claims that large-scale citizenship fraud had taken place since 2011 and constituted a threat to national security and Libyan identity. In addition to the alleged naturalisation of mercenaries recruited by the Gadhafi regime during its final months, Libyan officials claimed that certain civil registry offices, especially in Al-Bayda and Murzuq,<sup>8</sup> have carried out registrations in violation of higher instructions, and that this contributed to inflating the national number database to 7.5 million

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<sup>8</sup> The Bayda Office hosts the Civil Registration Authority's "returnees department" for the eastern region, also dismissively referred to as "Sad-Shin Office" (based on *ش ص* the Arabic initials for "Eastern Desert" and referring to the Egyptian borderland). The Civil Registry Issuance Office in Murzuq is accused of having registered and issued documents to not only Aouzou registrants but also foreign nationals with no prior registration files.

people – far more than the previously estimated 6 million Libyans.<sup>9</sup> There are also reports that documents attesting eligibility for citizenship (such as “returnee cards”) have been offered for sale in Egypt and other countries, and that civil registry officials have knowingly registered foreigners as Libyan citizens based on forged documentation.<sup>10</sup> These concerns over illegal obtaining of Libyan citizenship and demographic change have heavily influenced the draft constitution, and have thereby shown the relevance of unresolved legal status to the wider political process.

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<sup>9</sup> The former head of the Civil Registration Authority, Mohamed Buker, alleged that the authority was under immense pressure during his time in office to manipulate the citizen database, accusing the GNA and his successor of concealing large-scale fraud. See reports by Afrigatenews.net ([13 April 2017](#)) and LANA ([8 July 2018](#)).

<sup>10</sup> See reports by correspondents.org ([22 January 2014](#)) and AlMotawasset ([18 April 2018](#)).

## 2. Living with undetermined legal status

Having discussed the historical context of undetermined legal status, this section looks at its practical implications: who has been affected by the issue, and how it has impacted their livelihoods and living conditions.

### People affected

At present, it is possible to distinguish two categories of people affected by the citizenship issue, both of which arguably fall under the definition of undetermined legal status.<sup>11</sup> The first category consists of people who have not been able to obtain a national number due to their type of registration and lack of vital documentation. They are Sahelian Tuareg, Arab returnees from exile, or foreign nationals who used to benefit from Libyan Arab Citizenship status. There are records of over 14,000 Tuareg families awaiting naturalization since the 1980s, and some say they are now more than 16,000.<sup>12</sup> Most of them reside in Ubari, Sebha, Uwainat and Ghat. As for Arab returnees from exile, data is more dispersed and difficult to obtain. Nearly 27,000 families from across the Fezzan are listed in the civil register in Sebha as Arab persons of undetermined legal status or "files in progress".<sup>13</sup> The majority of them are Awlad Suliman, Hasawna and Mahamid, living predominantly in the Sebha area.<sup>14</sup> This category also comprises smaller numbers of Tebu who are without valid documentation.

The second category of undetermined legal status are people who have in fact been able to obtain national numbers, but whose naturalisation is disputed by other Libyans and parts of the state administration, and who therefore risk having their status revoked. This pertains primarily to Tebu, with estimates ranging between 3,000 and 9,000 families.<sup>15</sup>

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<sup>11</sup> Some words of caution apply here. 1) The figures in this section are rough estimates based on past registration files and partial data from civil register, as well as interviewee assessments. The author is not in a position to verify these figures. 2) Population estimates are presented as number of families or households, because civil registration in Libya is family-based. To roughly estimate the number of individuals, multiply the number of families by 5.5 (average Libyan household size). 3) Mentioned categories do not encompass all individual cases of undetermined legal status. Some people obtained citizenship owing to specific circumstances, while others did not. In addition to group-specific factors (for Aouzou Tebu, Tuareg, Arab returnees from exile), individuals' fate depended on administrative arbitrariness, corruption, favoritism and discrimination. 4) Listed communities and tribes must not be reduced to the citizenship issue because only certain groups are affected.

<sup>12</sup> The Civil Registration Authority began registering Sahelian Tuareg started in 1976 and listed 14,242 families in 1981. Repeated naturalization approvals by the regime, including a 2011 decree granting citizenship to over 6,500 Tuareg people, were not implemented, Tuareg representatives and activists say.

<sup>13</sup> A total of 16,893 families are listed as such by the civil registry office in Sebha. The data is not disaggregated, leaving it unclear whether the number is for Arab returnees from exile only, or also includes Tuareg (labelled as Arabs) or Arab nationals without Libyan origins who previously had Libyan Arab Citizenship. Furthermore, no data has been obtained from other civil registry offices in Libya that have registered Arab returnees from exile, such as Brak al Shati in the south or offices in the east (Al Bayda etc.).

<sup>14</sup> Returnees of the Gadhafda and Warfalla tribes were naturalised, either due to earlier arrival (pre-1951), or owing to privileged treatment (post-1969).

<sup>15</sup> No civil registry data could be obtained, and interviews yielded diverging estimates. According to a 1994 UN field report, there were around 4,000 inhabitants left in Aouzou when Libyan troops withdrew. However, this does not

## **Livelihoods and living conditions**

This section examines how unresolved citizenship claims have affected people in different ways, including how it can cause livelihoods and living conditions to fall.

### Gadhafi-era: appeasement and selective benefits

Without going into details on policies shifts and administrative discrepancies, the practical implications of undetermined legal status during the Gadhafi era can be summarized as follows. People were usually registered and given some proof of identity (ID cards, birth certificates...), but denied proof of citizenship (family booklets). They faced greater bureaucratic hurdles – and sometimes harassment – when registering changes in civil status (births, marriages, deaths) or requesting documents for other purposes such as education, work, or travel. In some instances, temporary documents were issued collectively, such as in 2005 when a large number of Sahelian Tuareg obtained ID cards. Aouzou registrants were excluded from administrative dealings altogether between 1996, when their citizenship was revoked, until 2011, when this revocation was lifted.

Even without proof of citizenship, people of undetermined status could work in the public sector, and many were part of the army and police corps. On this basis, they had access to salaries, social security pensions, subsidised food items, and free basic health care. This was generally not the case for Aouzou registrants, although access to services varied by location, and some successfully reclaimed pension payments through the courts in 2006.

Beyond the basics, people of undetermined status were not guaranteed full access to education and employment opportunities. For instance, an inability to present a family booklet could result in being denied enrolment in school and university. Certain professional domains and police or military ranks were generally reserved for citizenship holders. Ethnic discrimination allegedly diminished opportunities further, with Tebu from Kufra reporting reduced access to education, jobs and ranks even for those who were not from the Aouzou population.

People's level of access to documents, services, jobs, as well as various other social services, depended greatly on their personal contacts within the regime apparatus. This not only restricted social mobility but also reinforced patterns of clientelism. For instance, Tuareg and Arabs enrolled in elite paramilitary forces had better chances of regularising their status and becoming citizens than those enrolled in the regular army.

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tell how many people had already moved to Libya at that point. According to Tebu sources, tens of Libyan Tebu families (not natives of Aouzou) registered in Aouzou between 1975 and 1994 and are also affected until today.

Based on Tebu and Tuareg accounts, living without proof of citizenship brought a multitude of day-to-day challenges, which were not always attributable to regime policy. As one interlocutor explained, structural problems created a permissive environment for violence and exploitation, leaving people of undetermined legal status at the mercy of individual officials and law enforcement agents, and with no means of recourse. At checkpoints, for example, the mere mention of a foreign place of birth on one's ID could result in public humiliation or extortion. Although tribal dynamics have changed since 2011, this pattern of behaviour persists nowadays.

#### Post-2011: collective recategorisation

Since the Libyan Revolution, undetermined legal status affects people's lives in more ways than it did under the former regime. This is primarily the outcome of the 2013 national number reform, which divided the population into people with numbers and people without.<sup>16</sup> Salaries, pensions, subsidised food, and most public services became tied to the national number, leaving people of undetermined status and their families without access to these. The introduction of the administrative number for those ineligible for national numbers brought only partial relief, as salaries paid through this system are frequently delayed and reportedly withheld at bank branches in South Libya. Travel restrictions have prevented numerous Tuareg with serious illnesses and combat injuries from seeking treatment abroad.<sup>17</sup> Aouzou registrants who have obtained national numbers are now better off than before 2011, although they continue facing administrative hurdles and harassment, including incidents of passport holders being denied international travel. In the South, systematic neglect and shortages – in terms of public services, subsidised food items, fuel and cooking gas, and cash supplies – affect all residents; however, not having a national number further reduces peoples' ability to cope with decreased living standards. People of undetermined legal status not only have fewer means to generate formal income but are also excluded from humanitarian assistance to vulnerable families.

#### Long-term consequences

Lack of citizenship has had a lasting impact on people's lives, from gaps in education and poor professional qualifications to health issues due to reduced access to medical facilities. Being legally barred from owning property or setting up a business reduces people's social and physical mobility; they cannot easily move outside their city or tribal area, let alone travel abroad legally. Their living conditions tend to be sub-standard, with some living in social

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<sup>16</sup> Noting that administrative numbers, which were widely attributed to registered people ineligible for national numbers, do not in practice entail the same rights and benefits.

<sup>17</sup> This point was of particular concern for Tuareg interlocutors, especially after Algeria closed its border to Libya and started detaining trespassers who did not carry ID papers. The author has also been approached by families seeking help to transfer patients of undetermined status abroad.

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housing blocks, while others make do in makeshift dwellings on abandoned construction sites, on the outskirts of Sebha, Ubari, Ghat and Kufra, and in Wadi al Shati.

### **3. Repercussions on peace and stability**

Unresolved citizenship drives instability and hinders peace efforts. While this manifests itself primarily in the South, the resulting communal tensions, militarisation, and lack of investment in the national political process have implications at the national level.

#### **Communities destabilised**

Southern Libya is a patchwork of tribes and ethnic groups that have maintained fairly distinct identities. Past migration patterns have had a massive impact on how these groups view one another. The notion of originality – who originally lived somewhere – and the distinction made between “natives” as opposed to “immigrants” and “returnees”, remain central to present-day narratives. There is little consensus on what these notions mean.<sup>18</sup>

During the Gadhafi era, the South was destabilised by policies that involved state-sponsored mass-immigration, as well as targeted discrimination and manipulation of political and tribal loyalties. The regime supported immigrant families, providing schooling, state employment and housing for many of them. In Sebha and other southern towns, social housing blocks mushroomed in the 1980s to accommodate the biggest waves of returnee and immigrant arrivals. These people were dependent on the state, and – as a result – often zealously loyal to Gadhafi. Yet they were not necessarily well-off. Over time, the gradual decay of their neighbourhoods became emblematic of the regime's lack of commitment to them. Dutiful service to the state and loyalty did not guarantee them access to citizenship, and without citizenship they did not have equal opportunities. The perceived “special relationship” between the regime and the immigrants nevertheless stirred resentment amongst other residents, who were left feeling neglected. Despite tribal ties to host communities, the immigrants often integrated poorly in society, living and marrying amongst themselves, remaining united by their foreign provenance.

The mutual resentment lives on today, as immigrants feel unfairly treated – second-class citizens at best – while native Libyans may perceive them as foreign profiteers and unwanted relics of Gadhafi's policies. Views are most extreme when ethnic and cultural differences are at play: Arabs with a narrow conception of national identity may view Tebu and Tuareg as having no legitimate claim to “Libyanhood”, while Tebu and Tuareg at times dismiss Arabs collectively as foreign invaders of their ancient homeland. The native-foreign paradigm also runs through tribes and ethnic groups. Many southerners dispute the right to return of diasporas, including that of their own tribe, or believe that this right was illegally utilised by people without ties to Libya. There is a common belief that the “cultural differences” between natives and immigrants

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<sup>18</sup> “Returnees from exile” is an official term, but also used in a derogatory manner. The term “immigrants” is used here as umbrella term, irrespective of whether people had Libyan origins (and were thus classified as returnees).

that previously impeded social integration have prevented peaceful coexistence after 2011.<sup>19</sup> Tebu representatives say that their community was weakened by differences of opinion between Libyan and Aouzou Tebu, which Gadhafi exploited during his rule.<sup>20</sup>

These social rifts form the backdrop to the communal violence and warfare that has engulfed the region since the revolution, from Kufra to Ubari. Whenever tensions flare, negative perceptions surface in the form of mutual accusations and slander. The advance of the Libyan Arab Armed Forces (or Libya National Army) into the Fezzan in January 2019 exacerbated tribal tensions between Tebu and Arabs/Ahali, unleashing a cycle of violence in Murzuq.<sup>21</sup> Social media channels instantly resorted to derogatory name-calling that saw frequent references to other groups' "foreign origins".<sup>22</sup>

The inflow of Chadian, Sudanese and other foreign fighters through Libya's porous southern borders in recent years has further undermined the position of residents who have been naturalised or are awaiting a settlement of their citizenship claims. Different circumstances and periods of arrival are conflated in the public and media discourse. Tebu, Sahelian Tuareg, and Arab returnees are often branded mercenaries, although only a small portion of their overall populations likely qualify as such. At the same time, fluid identities and alliances blur the lines between Libyan and foreign actors, and armed groups in the South tarnish the reputation of their tribes.

### **Generations militarised**

The Libyan state's flawed approaches to immigration and citizenship have fostered violence among southern communities over several generations, contributing to today's tribalism and militarisation. Gadhafi left a heavy legacy in this regard. Between the 1970s and 1990s, the regime recruited heavily among immigrants to boost armed forces and networks of social control, and also trained foreign fighters in Libyan military camps. Up until the uprising in 2011, Gadhafi relied on paramilitary forces, some predominantly manned by Sahelian Tuareg and Arab returnees.<sup>23</sup> Gadhafi's fall left these combatants without a state patron. It also left their

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<sup>19</sup> Author interview with sociologist in Wadi al Shati, April 2019.

<sup>20</sup> Interview with Zellawi Mina Saleh conducted by a research assistant, Al-Qatrun, June 2018

<sup>21</sup> The LAAF/LNA's 2019 Fezzan campaign empowered Magarha and Awlad Suliman tribal and military actors. It also provided a cover for Arab armed factions that have been in conflict with Tebu on various occasions (primarily Awlad Suliman) to lash out against Tebu forces and reclaim territory seized by the latter in recent years. Tebu have largely turned their backs to the LAAF due to its Arab-centric rhetoric and coalition-building and believe that they are being systematically targeted.

<sup>22</sup> For instance, Facebook pages such as [The truth on Tebu in South Libya](#) and [Voice of Murzuq](#) seek to deconstruct notion that Tebu are indigenous to Libya or that Aouzou Tebu have a rightful claim to citizenship. Meanwhile, Tebu pages such as [Tebu Channel in Sebha](#) say that most Awlad Suliman are from Chad and Niger and "less native" than them.

<sup>23</sup> Such as the Maghawir Brigade in Ubari (Sahelian Tuareg) and the Fares Brigade in Sebha (Ghadhafa, Warfalla, Awlad Suliman, Tebu, including many returnees). For more information see Wolfram Lacher, "Libya's Fractious South and Regional Instability", dispatch February 2014, Small Arms Survey, [available here](#).

communities stigmatised. Notwithstanding the ambiguity of this patronage, its absence augmented their sense of insecurity, which in turn spurred armed mobilisation along tribal lines. Soldiers and policemen who had not obtained citizenship were left without pay or pension in 2013 as a result of the national number. Resentful for years of service going without recognition, some joined the burgeoning militia scene.

Today's tribal armed groups in and around Sebha are said to be heavily manned by returnees and blamed for much of the urban violence.<sup>24</sup> As these groups seek recognition and money from central governments, the presence of members without national numbers and military accreditation constitutes an obstacle, and this has led to blockades of state facilities.<sup>25</sup> In Ubari, the repercussions of the national number have been a key rallying point for protests at the Sharara oil field since 2013. The rise of Sahelian Tuareg, who began using their military influence in Ubari to pressure the state for citizenship and pay, led to tensions with long-established Tuareg clans. This also played into the 2014-2016 war between Tuareg and Tebu. Most Sahelian Tuareg have since been given administrative numbers as part of a set of concessions, but persisting payment issues have led to further anti-state action. A recent blockade at Sharara (December 2018 to February 2019) involved oil guards demanding their outstanding salaries. Similarly, the Tebu community has become heavily militarised since 2011, compensating for Gadhafi-era marginalisation and challenging Arab dominance. The territorial expansion of Tebu armed groups and their control of trade and smuggling routes has caused friction with their Arab and Tuareg neighbours.

These examples illustrate how the absence of rights and opportunities heightens the temptation of resorting to violence, and how armed groups thrive among disenfranchised populations. Moreover, North-South military alliances and recruitment patterns since 2014 show that southern armed groups have been pulled into the national-level conflict, suggesting that combatants who as a result of their legal status are not on an official payroll have been rewarded in other ways.<sup>26</sup>

### **Limited inclusiveness of political processes**

The citizenship issue also impacts political processes. People of undetermined legal status cannot presently take part in formal political life as they are not eligible to vote or stand for elections. This further reduces southern communities' investment in democratic processes and bolsters informal decision-making.

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<sup>24</sup> Author interviews with residents of Sebha and Wadi al Shati, 2018/2019.

<sup>25</sup> The Central Bank Branch in Sebha was blockaded on at least three occasions since November 2013 by different groups demanding citizenship and/or pay.

<sup>26</sup> More data on armed group membership would be required to fully understand the correlation between lack of citizenship and militarisation.

In the 2012 general elections, people of undetermined status were mostly able to participate as voter registration was handled with some flexibility.<sup>27</sup> However, over one thousand Tebu voters in Kufra were disqualified after a district court ruled that, as Aouzou registrants, they did not qualify as Libyan citizens. The ban extended to non-Aouzou Tebu, singled out on the basis of their Tebu names, and no chance was given for appeals.<sup>28</sup> By 2014, participation in general and local elections had become tied to the national number, barring all those without numbers. In 2018, Tuareg rights activists appealed to the electoral commission to reopen voter registration for Tuareg with administrative numbers to be able to take part in the next round of elections, but their efforts were in vein. This means that the 2019 municipal elections that have already taken place in several southern constituencies are not inclusive of these groups. While citizens in the South are entitled to vote, the exclusion of large segments of their tribes or communities reduces their overall political clout.<sup>29</sup> The lack of political participation is also problematic for the planned referendum on the constitution, which will have direct implications for people of undetermined legal status, as discussed below.

Aside from elections, populations of undetermined legal status have not played a visible role in national-level peace talks and lack a common platform to bring forth their demands and influence decisions. Instead, they rely primarily on social actors, such as tribal elders and councils, as well as elected representatives of their tribe and community to advocate for their cause. Without passports, people of undetermined status are unable to attend events held abroad where Libyan issues are discussed.

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<sup>27</sup> Voters could register with their ID and family status certificate, not requiring a family booklet.

<sup>28</sup> Author interview with a member of the Tebu National Assembly and a former government official from Kufra, 2018.

<sup>29</sup> This was pointed out by interlocutors in Ubari, where voter turnout for the 2014 elections was particularly low among Tuareg (the largest or second largest ethnic group in the city) and where no Tuareg candidate made it into the municipal council (2014-2019). It should be noted, however, that the barring of Tuareg of undetermined legal status from voting was only one among several factors impacting the elections.

#### 4. The constitution: a solution or source of further troubles?

The issue of citizenship and undetermined legal status is a major challenge for the Libyan state but has been overshadowed by the ongoing political struggles. At present, the most viable avenue for its resolution is through the Libyan draft constitution, which remains the only post-2011 attempt to address the legal aspects underpinning the citizenship issue. But the process has not been without its discontents, and has been boycotted by various affected groups.

##### **A solution to undermined legal status in the draft constitution**

The draft constitution, which was presented in July 2017 and is set to be put to referendum this year, proposes the following framework for addressing citizenship claims and grants:

##### Article (186) on citizenship<sup>30</sup>

- 1) *Naturalisation procedures shall be suspended for ten years from the date the Constitution comes into force.*
- 2) *The state shall be committed to settling citizenship claims<sup>31</sup> submitted prior to 17 February 2011 in accordance with the law applicable prior to this Constitution. The state shall also be committed to classifying the status of [Libyan] Arab Citizenship holders in terms of original or acquired citizenship.*
- 3) *Upon entry of this constitution into force, the use of registration lists for people of Libyan origins, applied at Libyan embassies, shall be suspended.*
- 4) *The High Judicial Council shall form a judicial commission chaired by a counsellor of the Court of Appeals, guaranteeing its independence and impartiality. This committee shall review all cases of citizenship granted since 15 February 2011. The decisions of the committee shall be subject to challenge before the competent judicial authorities.*

These provisions raise a number of questions that will be examined in more detail below. The starting point for this is the notion of "applicable law". In practice, there was no clear hierarchy of legislative and executive texts during the Gadhafi era, with policies often based on internal circulars or memos. The primary piece of legislation applicable is Law 24 of 2010 on citizenship,<sup>32</sup> but there are tens of government decrees on naturalisation, issued over a span of four decades, the applicability of which is uncertain. The constitution does not clarify whether the settlement of claims predating 17 February 2011 shall take into account past decrees, some of which granted citizenship to entire population groups but were not implemented.

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<sup>30</sup> The full draft constitution is available [here](#).

<sup>31</sup> Arabic wording is طلبات اثبات الجنسية ("applications for proof of citizenship").

<sup>32</sup> Law 24 of 2010 on Citizenship, [Arabic/English](#).

The notion of citizenship claims or, as it is worded in Arabic, "application for proof of citizenship", also requires further elaboration. The question is whether claims are meant to be assessed case-by-case or addressed collectively, based on existing lists such as the returnee registers and the Tuareg register. Among communities of undetermined legal status there is a preference for the latter option, as people are not eager to "start from square one". However, unravelling the bureaucratic intricacies of the past will be a challenge. Recent statements by the Civil Registration Authority suggest that there is no comprehensive database of applicants and parallel registrants. Under Gadhafi, naturalisation procedures not only changed frequently, but also applied in different ways to different groups. Tuareg and Arab returnees from exile, for instance, were registered in "parallel" lists and at different locations, required to submit a different set of documents to prove Libyan origins.

All of these points are not necessarily shortcomings but mean that crucial – and contentious – details are yet to be worked out and put in future legislation. According to article 10 the draft constitution, "*a law shall regulate the provisions of Libyan nationality and how it is conferred and withdrawn, taking into consideration national interest, preservation of the demographic composition, and ease of integration into Libyan society.*"<sup>33</sup> Nevertheless, section 2 of article 186 suggests that Tuareg and Arab returnees from exile who have been registered in the past will obtain citizenship, as will people who used to hold Libyan Arab Citizenship based on their Libyan origins.

As per section 3 of article 186 of the draft constitution, no further citizenship claims based on Libyan origins (returnees from exile) will be accepted. This, together with section 1, which suspends naturalisation for a period of ten years, means that people of foreign nationality or undetermined status who have not already submitted a claim will not be able to obtain Libyan citizenship in the foreseeable future. These sections are perhaps the least controversial ones, as many Libyans – including people of undetermined legal status awaiting the settlement of their claim – think that past applicants must be given priority and integrated before the "gates of citizenship" can reopen. Nevertheless, this course of action may cause complications. First, little is known about long-term Libya residents (with or without Libyan origins) who remained unregistered and without formal status. Second, the "right to return" is a principle that Libyan cross-border tribes and communities hold on to; they want Libyan society and legislators to acknowledge the existence of "diasporas" and allow people in these diasporas to apply when the "time is right".<sup>34</sup>

It is section 4 of article 186, which stipulates the review of all post-2011 grants of citizenship, that poses the greatest challenge at present. This measure is ostensibly aimed at foreign

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<sup>33</sup> An earlier addition (April 2017 draft) - "*Libyan citizenship may not be revoked for any reason whatsoever*" – was removed for the final draft.

<sup>34</sup> This view has been voiced by representatives of the Awlad Suliman tribe, which extends into Sahel countries.

mercenaries who were naturalised during the uprising to back up regime forces, and people who obtained documentation fraudulently, profiting from administrative corruption and loopholes in the aftermath. Although a variety of people – with and without Libyan origins, old and new claims – appear to have obtained citizenship and national numbers since 2011, the Tebu are the only community to have seen what could be called “collective re-categorisation” within this time frame. In implementation of Letter 743 of 23 May 2011, the civil registry office in Murzuq revalidated Aouzou registrants’ long suspended files, which later allowed national numbers to be issued to them. Whether this qualifies as grants of citizenship is a matter of debate. Tebu representatives and activists argue that Letter 743 merely reconfirmed existing citizenship statuses that had been cancelled in 1996; in other words, lifted a ban on Aouzou registrants. They object to the idea of setting 15 February 2011 as a marker to distinguish between “legitimate” naturalisations before, and “illegitimate” naturalisations after this date, arguing that if the intention is to reverse extra-legal and arbitrary naturalisations, then the review should start from Gadhafi’s takeover in 1969. From the perspective of these activists, section 4 really is an ill-concealed attempt to strip Aouzou registrants of citizenship for the second time. Disagreements over citizenship provisions had resulted in the amendment of an earlier version of the article, which said: “*all post-2011 naturalisations contrary to the [2010] citizenship law shall be repealed*”.<sup>35</sup> Although the wording is more nuanced in the final draft, Tebu have reservations on entrusting a future commission with reviewing naturalisation and re-categorisation cases, given their community’s past experiences of tribal considerations weighing in on official decisions.

Article 186 is among the reasons why Tebu members of the Constitution Drafting Assembly (CDA) rejected the final draft of the constitution. The Tuareg and Arab position is less clear-cut. A Tuareg lawmaker and dignitary both thought that section 2 is a step in the right direction, and will force future state authorities to settle pre-2011 claims.<sup>36</sup> Yet, their optimism is not necessarily shared by their constituencies. Others worry that the constitution will - on the contrary - provide an excuse for state authorities to continue eschewing the issue. From their point of view, settling pre-2011 citizenship claims requires no further legislation but should be done by current authorities on the basis of existing laws and regulations.<sup>37</sup>

### **Challenges to the constitution and referendum**

The drafting of a new constitution for Libya posits a dilemma. On the one hand, it is a declaration of principles desperately needed to reinvigorate the political process and help forge a sense of national unity. It is also a long overdue step to lift some of the confusion surrounding Libyan citizenship and set basic guidelines for determining who is eligible. On the other hand, the current draft lacks buy-in from Libya’s Amazigh, Tuareg and Tebu, many of

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<sup>35</sup> Conclusions of the CDA working group, [October 2015](#).

<sup>36</sup> Author interviews with Tuareg CDA member and a representative of the High Tuareg Social Council, 2018.

<sup>37</sup> Author interview with Tuareg peace mediator and former senior government official, Tunis, June 2019

whom feel that it does not do justice to the country's ethnic diversity; nor guarantee their rights as non-Arab social and cultural components.

The drafting process was marred from the outset by the vacancy of the two seats reserved for Amazigh and intermittently boycotting on the part of the four Tebu and Tuareg members. The latter accused their colleagues of not respecting the consensus clause for decision-making, which made internal voting on articles relating to national identity, language and minority rights contingent on the approval of at least one member from each of the non-Arab social components.<sup>38</sup> Finally, only one Tuareg member voted in favour of the final draft, while the other Tuareg and the two Tebu abstained from the July 2017 vote.<sup>39</sup>

Given these and other procedural irregularities that the CDA is accused of, the validity of the draft constitution has been called into doubt.<sup>40</sup> Further issues arose with the referendum law, which was only passed in November 2018 and has been challenged in court.<sup>41</sup> The renewed escalation of the civil war in April 2019 has once again disrupted the electoral timeline that was set earlier this year. There is no visibility on when sufficiently conducive political and security climate can be attained.

Assuming that the referendum does take place on the basis of the existing draft, it will likely trigger unrest in South Libya.<sup>42</sup> Beyond citizenship, the broader controversy over minority rights is expected to curtail participation among Libya's Amazigh, Tebu and Tuareg. In joint declarations with the Amazigh Supreme Council, Tebu CDA members rejected the draft and called for a boycott of the referendum.<sup>43</sup> The Tebu's (self-declared) Sultan, Ahmed Haki Musa, has condemned the constitution and called on Tebu political and military actors to join ranks against the "racist referendum".<sup>44</sup> Members of the Tebu National Assembly have told the author that they expect their communities to largely abstain from voting, and that the passing of the constitution could fuel anti-state action and secessionist sentiments.<sup>45</sup> Tuareg activists in the South have also demonstrated against the constitution on several occasions since 2018, stating that the Tuareg CDA members did not represent them.<sup>46</sup> If boycott calls prevail, this will likely entail the forced closure of polling stations in a repetition of the 2014 events.

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<sup>38</sup> Said consensus clause had been introduced at the last minute in response to protests and the closure of polling stations in predominantly non-Arab communities during the 2014 CDA elections. (Author interview with Tebu CDA member, April 2019).

<sup>39</sup> The list of signatories can be found on the last page of the draft constitution.

<sup>40</sup> See Libya Herald, [17 August 2017](#).

<sup>41</sup> See news reports on the HoR's [approval of the referendum law](#), a [complaint](#) filed to the Supreme Court and subsequent [amendments](#) to the law.

<sup>42</sup> Adding to which there are concerns that the constitution will be widely rejected by voters in the East.

<sup>43</sup> Announcements on [29 July 2018](#) and further statement issued in [December 2018](#).

<sup>44</sup> See [statement](#) published on Sultan Ahmed the First' Facebook page in July 2018. See also footnote 70 for clarification regarding Tebu customary chieftdom.

<sup>45</sup> Author interview with representatives of Tebu National Assembly, Tunis, September/November 2018.

<sup>46</sup> Tuareg activists demonstrating in Sebha in [October 2018](#)

## 5. Looking ahead

More information is needed to accurately assess the scale of the issue and anticipate challenges. Despite the research conducted on the issue of undetermined legal statuses, many questions remain unanswered. It is particularly concerning that the overall number of affected people is unknown to both the public, and – as it seems – to current Libyan authorities.

This has critical implications. First, undetermined legal status has so far not been taken into account as a vulnerability factor in humanitarian assistance and development programs. Second, the potential fallouts of tackling this issue through the constitution and future legislation cannot be reliably anticipated. Third, the lack of reliable data and public knowledge has left the floor to social anxiety and incitement against such populations. In the spirit of clarifying matters, it is encouraging that the Civil Registration Authority recently set out to produce an inventory of families listed within the “returnee register”, as well as any registered individuals whose citizenship status is undetermined, and that this was announced publicly.<sup>47</sup>

### The need for a roadmap

A comprehensive roadmap would be beneficial to steer current measures and prepare the ground for a definite settlement of unresolved citizenship claims. As of June 2019, the uncertainty surrounding the constitution and the escalation of the conflict make it difficult to envision a policy approach. Stakeholders could, however, use this phase of uncertainty to work on a more long-term roadmap for resolving undetermined citizenship claims. This should take into account the provisions in the constitution and also look at what further legal and administrative steps will be needed to implement them.

In fact, the authorities that deal with citizen and foreigner registration have not been sitting idle but have taken a series of steps with regards to people of undetermined legal status over the past year. In addition to its inventory of “returnee files”, the Civil Registration Authority formed a commission to review these files in terms of their authenticity and existence of supporting documents, granting it three months starting from 6 February 2019 to complete this task.<sup>48</sup> Meanwhile, the Authority for Passports, Citizenship, and Foreigner Affairs has instructed its branches to stop dealing with “Aouzou-born individuals whose family booklets were issued in Murzuq, Qatrun, Kufra, or Ajdabiya”.<sup>49</sup> The need for these two bodies to consolidate their databases and review documentation issued is evidenced by the confusion on who was naturalised, when, and under what circumstances. However, caution is advised with administrative authorities taking matters into their own hands in the absence of clear

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<sup>47</sup> Circular issued on 1 August 2018 by the head of the Civil Registration Authority, Mohamed Beltamer, and shared by him in a [tweet](#).

<sup>48</sup> Civil Registration Authority Decree 70 of 2019 issued by Mohamed Beltamer and shared by him in a [tweet](#).

<sup>49</sup> Letter 398 issued on 2 February 2018 and Letter 6999 issued on 22 July 2018.

guidelines. People designated in these decisions are – or will be – affected, even though the constitutional provisions on addressing their cases have not yet come into effect. A roadmap that relevant authorities commit to could provide a framework for their internal data gathering and review efforts while also preventing them from enforcing unvetted rules and adding to the bulk of executive rulings that will need to be unravelled at some point.

### **The need for consultations and advocacy**

Populations of undetermined legal status need to be consulted more extensively to forge consensus on proposed solutions and obtain buy-in for the constitution. Citizenship is among the core contentious issues in Libya, yet it remains somewhat of a taboo. Although aspects of it are frequently touched upon in media and social media platforms and in statements made by state officials, there has not been any meaningful public exchange or dialogue on the issue. Nor is there a comprehensive mechanism in place for such a dialogue. The solutions put forth in the constitution are contingent on future state institutions able to implement them, but also risk exacerbating tensions and violence. Risks could be mitigated through a comprehensive, inclusive and open dialogue, that at a minimum gives a voice to populations of underdetermined status in the debate.

Furthermore, populations of undetermined legal status would benefit from having a common platform for advocacy and discussion. Affected populations lack a common platform and have little say on the political scene. There should be a mechanism to engage with actors who advocate for the rights of specific groups. With the exception of some elected representatives of tribes and communities affected by undetermined legal status, such as members of the CDA<sup>50</sup> and HoR, these actors are mainly found in the social domain. Prominent Tuareg figures, such as Mulay Gdidi<sup>51</sup> and Abubakr al Faqhi Ingidazen,<sup>52</sup> as well as Tuareg rights groups,<sup>53</sup> have spoken out about lack of citizenship and related grievances in their communities. Elders and dignitaries from the Sahelian Tuareg community presented their case to national-level bodies

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<sup>50</sup> The Tebu CDA members are Khaled Abubakr Wahli and Asnussi Hamed Wahli. The Tuareg CDA members are Ali Hamidan Aghali and Ibrahim Ahamidu Alaq.

<sup>51</sup> Mulay Gdidi is a key Tuareg representative, heading the High Tuareg Social Council since September 2018 (and previously the Tuareg Supreme Council), and has played role in social and tribal dialogue initiatives since 2015. He has approached Libyan and international parties on the issue of Tuareg of undetermined legal status, advocating for a legal solution, political rights, and humanitarian measures. He has also discussed the issue with media, such as Maghreb Voices ([July 2018](#)) and Le Monde ([October 2018](#)).

<sup>52</sup> Founding member of the Ubari-based Tuareg Social Council, Al Faqhi Ingidazen is the signatory of a letter addressed to UNSMIL and titled "The Tuareg and the Citizenship Crisis – an outcry before the catastrophe", which details causes and repercussions of undetermined legal status among Libya's Tuareg. This letter was obtained by the author of this paper.

<sup>53</sup> French-based NGO Imouhagh International Organisation published a [statement](#) in July 2018 titled "Settlement of legal status of the Tuareg in Libya"; its two leading members Ayoub Attaher and Akli Shka have been campaigning for Tuareg rights in Europe. For a more grassroots angle, Fezzan-based NGOs such as the [Tuareg Women Organisation for Awareness and Human Rights](#) can be reached out to.

around the time the national number was implemented but do not seem to dispose of any permanent advocacy structure.

Tebu actors, on the other hand, do not have a concerted position on the issue of Aouzou registrants, as a result of internal divisions and leadership rivalries. Perhaps the most consensual interlocutor is the Tebu National Assembly, which is presided by Adam Arami Kerki and has a wide membership. In terms of traditional representatives, Ahmed Haki Musa is closer to the Aouzou issue than Zellawi Mina Saleh, although the latter is more widely recognized by Libyan Tebu as their customary leader.<sup>54</sup>

Similarly, the Awlad Suliman, Hasawna and Mahamid do not appear to have made concerted efforts to advocate for the cause of their populations of undetermined status. Due to the prevalence of negative associations with returnees, interlocutors from these tribes often avoid discussing the subject and diminish its relevance to their own tribe.<sup>55</sup> A tribal gathering was held in Sebha last year to discuss the issue, but no further information could be obtained. Notwithstanding this, the three tribes mentioned have social councils that in theory represent the interests of all of their tribe's components. An outreach strategy could also involve social councils with mixed tribal membership that represent cities or regions, such as the Supreme Council of Fezzan Tribes and Cities,<sup>56</sup> or those that specialise in conflict mediation, such as the Libyan Elders Council for Reconciliation.<sup>57</sup>

Although it would be positive to engage stakeholders of different tribal backgrounds collectively, local sensitivities need to be taken into account and may necessitate separate consultations. Southern tribes are at odds on a number of grounds, and the right to citizenship is a key point of contention. Interviews with Tuareg conveyed a feeling of betrayal, not only on the part of Arabs, who Tuareg may believe are better placed to "bend the rules in their favour", but also by Tebu, who allegedly "seized their rights by force" and later waged war against Tuareg.<sup>58</sup> Likewise, Tebu often do not trust their southern neighbours to take an impartial stance on their citizenship grievances.

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<sup>54</sup> Ahmed Haki Musa (Ahmat Hokay) – who refers to himself as Sultan Ahmed the First – was himself born in the Aouzou strip and obtained Libyan citizenship. He is nowadays based between Murzuq and Tripoli, having fled prosecution in Chad in 2016. By contrast, Zellawi Mina Saleh (Godeyenu Mayna), is from a long-established Tebu family in Libya and based in Qatrun. Their respective interests and networks of influence differ, with Ahmed Haki Musa aspiring to be the Tebu's overall *derde* (customary leadership figure), in place of the Chad-based current *derde*.

<sup>55</sup> As reflected in the author's conversations with a member of the Awlad Suliman Social Council, a sociologist from the Hasawna tribe and other southern interlocutors.

<sup>56</sup> Headed by a senior Hasawna elder, Sheikh Ali Busbiha.

<sup>57</sup> Headed by Mohamed Mubasher.

<sup>58</sup> Author interviews with Tuareg from Ubari, Tunis, 2018-2019.

## **Recommendations**

Until a durable solution has been found, efforts must be made to reduce the impact of the citizenship issue on livelihoods, peace and stability in South Libya. As outlined in this paper, the presence of populations within Libya who see themselves as citizens but are not treated as such already has negative implications beyond their personal welfare, in terms of stability, peace and political participation. Life in the margins and loss of livelihoods fuelled frustrations among southerners of undetermined status, while the increased militarisation in their midst exacerbated tensions with neighbouring tribes. These tensions have contributed to inter- and intra-communal warfare, and in all likelihood contributed to the growth of a fractured security landscape that largely escapes government oversight yet forms part of the ongoing civil war.

In order to address these issues, various recommendations for the short, medium, and long term have been identified below. In the **short term**, the following measures can be taken to alleviate the affected populations' immediate concerns, and promote dialogue and exchange:

### For Libyan parties:

- Consider temporary legal protection for people of undetermined status to allow access to essential services and grant travel authorisation for medical reasons;
- Clarify the official position on the administrative number system and its applicability;
- Instruct the High National Election Commission (HNEC) to clarify voter registration criteria, review the eligibility of people of undetermined status, and ensure transparent dispute mechanisms for elections;
- Support administrative bodies – namely the Civil Registration Authority and the Authority for Passports, Citizenship and Foreigner Affairs – with their internal data gathering and verification processes, and follow up on these activities; and
- Make funding available for social development and reconciliation efforts in communities with a high occurrence of undetermined legal status.

### For Libyan and international parties:

- Invest in further research to map the scope of undetermined legal status and disenfranchisement, the broader security and political impacts, and the extent of the social divide that resulted from past immigration and naturalization policies;
- Initiate and facilitate consultations with tribes and communities in which there are many cases of undetermined legal status, to hear their views on citizenship and on the solutions proposed in the draft constitution. In doing so, it is imperative to make sure that these interlocutors are in touch with their communities, and not perceived as elitist or biased: to that end, include municipal officials, elders, civil society organizations, youth and women. These consultations should aim to build local buy-in for a future process of addressing claims;

- Create and endorse a national platform for debate, to allow for people of undetermined status to express themselves and communicate with the general public. Such a platform could consist of a website or social media page, and could entail public events. It should be moderated to discourage name-calling and hate speech;
- Ensure representation of affected communities and tribes at the UN-sponsored Libyan National Conference that is planned to take place in the near future; and
- Ensure that funding reaches vulnerable populations and does not exacerbate communal tensions.

In the **medium term**, the following measures should be taken for a comprehensive and inclusive approach to resolving issues of citizenship and undetermined legal status:

For Libyan parties:

- Design a comprehensive roadmap for addressing undetermined legal statuses, to coordinate relevant measures taken by administrative bodies and prepare the next stages of the process, in which legislation will be drafted, revised, and implemented; and
- Select and create a body of experts to study the legal, historical and social dimensions of Libyan citizenship. These experts should be selected by the legislature in consultation with administrative bodies and affected populations. They should be given sufficient time to review past legislation and policies and present recommendations to the legislature. Their work should be transparent and involve public information campaigns to explain the intricacies of the issue to a wider audience and disperse misconceptions. They should seek to demystify poorly-understood notions, such as return from exile, Libyan Arab origins, and Aouzou registration; and
- Consider the option of settling citizenship claims without recourse to further legislation, in a scenario where the constitution does not come into force. If this course of action is agreed upon, the process of settling claims could be entrusted to a commission established under government oversight and composed of different stakeholders, including the head of the Civil Registration Authority, the head of the Authority for Passports, Citizenship and Foreigner Affairs, representatives drawn from affected populations, a judge or legal advisor, and the mayors of relevant municipalities.

For international parties:

- Support Libyan authorities in designing a roadmap by offering expertise on legal matters, social policy and conflict mediation; and
- Support the body of experts by offering expertise on legal matters, research tools and public relations.

Finally, there are a number of measures to be taken at a future stage, assuming that a **constitution has come into effect** and the context allows for the implementation of citizenship provisions:

For Libyan parties:

- The Libyan legislature should commit to a time-bound process to resolve citizenship claims based on constitutional and legislative provisions;
- State authorities should ensure that affected populations have been consulted, and that any research and preparations conducted in previous stages are taken into account;
- The judicial commission provided for in the draft constitution should work in a transparent manner to avoid any perceived bias in their revision of naturalisation cases; and
- The relevant authorities should implement projects to promote social cohesion and integration of naturalised populations.