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The Stateless Tebu of Libya?

Report of the Middle East and North Africa
Nationality and Statelessness Research Project

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cated effectively to all relevant (local) authorities. In practice, even during this time, whether the Tebu were recognised as Libyans by different state bodies or not was very arbitrary and many of the problems I already mentioned remained.

***How are the Tebu treated today, in post-revolution
Libya?***

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 Gadaffi during the revolution which would recognise the Tebu as nationals is now considered valid by the new authorities. This also became clear in problems reported by Carter Center election observers with the registration of some voters in Al-Kufra, who were apparently removed from the list because of them being considered foreigners under the 1996 Decree. In addition, I know many cases of people who had documents confiscated between 2007 and 2011 and have not had them re-issued, plus many others whose documents were lost or destroyed at some stage and who have not been able to get them reissued. Overall, the situation of the Tebu at present is diverse – some with documents, some without, some recognised as citizens, some apparently not. There is simply no uniform practice but I believe that problems of statelessness do persist for some at least.

to acquire or hold onto documentation now found that their papers were invalidated. This meant that if they approached any government authority, the documents would be confiscated and often they would then be denied services. While the 1996 Decree referred to Aouzou document-holders, this initiative seemed to target the Tebu even more directly. The fact that documents were being revoked also made it hard for Tebu to challenge or protest the treatment they received: without papers or with frozen documents. If you tried to go to Tripoli, you risked being arrested and put in detention if you were stopped at one of the many security checkpoints along the route.

What was the impact of the revolution on the situation of the Tebu?

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 didn't 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. In an effort to avoid its opponents gaining even greater force, or even opening a new front of dissent in the South where many Tebu reside, Gaddafi's regime passed a new Decree which cancelled the one from 1996. The hope was that the Tebu would then support the ruling government.

So, in 2011, everyone agreed that the Tebu were Libyan citizens?

Yes, but it is important to realise that this was in the context of the Revolution where both sides were vying for the support of the Tebu tribe. The government's decision to annul the 1996 Decree was also made in the midst of a very chaotic Libya and was not communi-

Introduction

Little is known about the problem of statelessness in the Libyan Arab Jamahiriya (Libya) today. Neither the United Nations High Commissioner for Refugees (UNHCR)¹ – the agency which carries the primary UN mandate for statelessness – nor any other official source offer a figure for the number of stateless people in the country. Nevertheless, there are indications that statelessness may be a significant concern in Libya. In particular, the emphasis on Libya's Arab identity and related "Arabisation" policies implemented during the rule of former President Moammar Gaddafi (1969 – 2011) are reported to have created obstacles for access to citizenship by various non-Arab minority groups present in the country.²

These include the Berber (Amazigh), Touareg and Tebu. Many members of these populations were denied official documentation at one time or another and some may indeed be stateless.

While it remains to be seen how these minority populations are treated in post-Revolution Libya, initial reports suggest that any cases of statelessness that exist among these groups will not be resolved immediately. The UN Inter-Agency Mission to Southern Libya, for instance, identified statelessness as a particular concern for the Tuareg. It furthermore reported that many Touareg have become displaced by inter-communal tension and that their plight is aggravated by their "perceived association with the former regime" – a perception that may hinder their recognition as citizens.³ According to another report, when Touareg representatives

¹ UNHCR Libya country page, available at <http://www.unhcr.org/pages/49e485f36.html>.

² Minority Rights Group International, *Libya country information as updated August 2011*, available at <http://www.minorityrights.org/4171/libya/libya-overview.html#current>.

³ United Nations Inter-Agency Mission to Southern Libya, 15–18 November 2011, available at http://northafrica.humanitarianresponse.info/sites/default/files/111118_OCHA_Southern_LibyaInter-AgencyMissionReport_15-18November2011.pdf.

approached the chairman of Libya's National Transitional Council to request the granting or confirmation of citizenship, they were informed that any such action could only be pursued after the 2012 elections.⁴ It is an initially positive sign that, in the context of these elections, that the Libyan transitional government acknowledged existing problems relating to access to documentation for particular groups and adopted a flexible approach to proof of eligibility for voter registration. In post-Revolution and post-election Libya, it will be critical to ensure that the presence within the Libyan populous of non-Arab minority communities is fully recognised and that the country's nationality policy is implemented in a non-discriminatory manner. To this end, there is an evident need to better analyse the situation of the Tuareg and other minority groups in order to understand their current citizenship status and explore remedies where cases of statelessness are identified.

The present report explores some of the challenges relating to the identification of statelessness in Libya, through a specific focus on the position of another of the groups mentioned above: the Tebu. Their situation was similarly influenced by historic policies of Arabisation. There is an added layer of complexity when seeking to understand the legal status of the Tebu, in the form of a dispute between Libya and Chad on the question of jurisdiction over the "Aouzou strip". This dispute led to ambiguity surrounding the nationality status of those resident in or otherwise associated with the area – a problem that particularly affected the Tebu, for various reasons as will be considered below.

In focusing on the situation of the Tebu, the report does not presume to be exhaustive in its discussion of potential statelessness in Libya. Furthermore, after a brief introduction to the relevant political and legal developments in Libya affecting the Tebu people, the

⁴ IRIN News, *Analysis: Libyan minority rights at a crossroads*, 24 May 2012, [[<http://www.irinnews.org/printreport.aspx?reportid=9552>][www.irinnews.org4]]

births, deaths or marriages. My own brother, for instance, was able to have his name added to the family book when he was born in Morzuk in 1997 because he had an Arab name, but many other members of the Tebu community were not recognised. There were also real problems in accessing other rights and services, because Aouzou documents were recognised very inconsistently by different public bodies – many considered the documents to be "frozen" by the Decree and so the benefits of those documents were too.

Can you tell us more about the impact this had on people's lives?

One example of the impact is the high rate of illiteracy among the Tebu in Libya. I believe it is approximately 50%, which means that we lag massively behind others in the country. This is because access to education for Tebu youth was interrupted when schools decided that they would refuse anyone who didn't hold the proper documents. On some occasions, Tebu protests would lead to an easing of this policy and people would be allowed to re-enter the schools, but at a later date the policy would change again, leaving many people with big gaps in their education. Another major problem was access to healthcare. The health system is very poor in Libya so many thousands of people go abroad every year to use the hospital facilities in neighbouring countries. For this you need valid documentation and many people with Aouzou documents were not able to get or renew their passports. From what I have heard from the Tebu community, between 1996 and 2011, around 260 people died due to inability to access necessary medical treatment abroad. This number sadly includes my own brother.

What is the significance of the later 2007 Decree?

In 2007, still under Gadafi, orders were issued for any documents held by the Tebu to be withdrawn. So, anyone who had been able

there was no effort to inform the Tebu of what had happened and what the consequences would be for them.

What happened to the status of those registered in Aouzou following the change of sovereignty?

Many Tebu became displaced again, scattering back North into Libya – mainly to the areas around Murzuk and Al-Kufra since they still couldn't return to their traditional desert lands (now not only a militarised zone but also apparently dangerous due to the prevalence of landmines). At first, their Libyan documents were still considered to be valid and they were able to use them as they settled in other parts of the country. Then, in 1996, Gadaffi passed Revolutionary Council Decree No. 12. The Decree deemed *anyone* who held an ID document issued in Aouzou to be a “foreigner”, without actually looking at whether the individuals concerned had acquired Chadian nationality as a result of the transfer of territory. Even though it was not explicitly directed at the Tebu, I believe that the Tebu were targeted because they had previously been forced to register in Aouzou. Many became stateless as a direct result of this Decree.

How were the Tebu treated after the 1996 Decree declared them to be “foreigners”?

The decree was implemented in a very arbitrary way and often interpreted and applied in a discriminatory manner. Some who had documents from Aouzou were able to continue to use these documents as valid, others were unable to use them or access services with them – whether the documents were or were not accepted seemed to be at the discretion of the authorities and was also affected by discriminatory attitudes. People with Tebu names had greater difficulties in using the documents – their papers were considered invalid more readily and often it was impossible to register

main body of this report is constituted by an in-depth interview with a member of the National Tebu Assembly, Mr. Mohammed A'Sunoussy. His extensive and authoritative knowledge of the situation of the Tebu people offers a unique insight into their position within Libyan society and under Libyan law. Nevertheless, the account of this interview may not provide a fully comprehensive picture of the question of statelessness as it affects the Tebu – it is offered here by way of tabling the need for further research into the present legal status of this and other populations in Libya.

The Tebu people

The Tebu (also commonly written as Toubou or Tabu) are a traditionally nomadic Saharan tribe which has long inhabited an area straddling the borders of present-day Libya, Chad and Niger. There are no reliable statistics on the size of the tribe today, with estimates ranging from 120,000 to several hundred thousand in total, split between these countries.⁵ Up to several tens of Map from CIA World Factbook thousands reside in Libya, where they have traditionally lived in the sparsely populated South East of the country, in particular in the region of the Tibesti mountains, along the frontier with Chad. Today there is a relatively high concentration in the Al Kufrah area.⁶ Libya's total population currently stands at approximately 5.6 million, so the Tebu constitute a small minority group.

It is a widely reported fact that the Tebu have long suffered from persecution and oppression in Libya.⁶ This treatment was particu-

⁵ News report, *Toubous: Restive warriors of Sahara*, 31 March 2012, available at <http://reliefweb.int/report/libya/toubous-restive-warriors-sahara>.

⁶ See, for instance, Minority Rights Group International, *Libya country information as updated August 2011*, available at <http://www.minorityrights.org/4171/libya/libya-overview.html#current>; Amnesty International, *Urgent Action: Forced Eviction Libya*, 31 March 2010; Summary of Stakeholders' submissions to the Universal Periodic Review of Libyan Arab Jamahiriya, A/HRW/WG.6/9/LBY/

larly acute under the former Gadaffi regime, when policies of Arabisation and ethnic purification had a detrimental effect on all non-Arab minorities in the country. The 1969 Constitutional Declaration and later the 1977 “Declaration on of the Establishment of the Authority of the People” defined Libya as an Arab nation with Arabic its only official language. Tebu people were commonly the victims of massive discrimination and subjected to forced evictions from their regular places of living. Large-scale displacement of the Tebu led to their dispersal across Libya and in some cases they were also pushed across the border to neighbouring countries. As well as passing a decree stripping the Tebu of Libyan citizenship (discussed below), under Gadaffi’s rule the Tebu were also denied access to education, health care and other basic services.⁷

Political and legal developments affecting the enjoyment of Libyan nationality by the Tebu

During the 1970s, under Gadaffi, Libya sought to take control of the region commonly referred to as the Aouzou strip – an area rich in minerals which then belonged to the territory of Libya’s Southern neighbour, Chad. Libyan troops invaded the strip and military bases were established in order to maintain control. Libya’s civil authorities proceeded to register the inhabitants of the Aouzou strip as Libyan citizens and issue them documentation accordingly. At this time, according to the interview testimony presented below, Libya’s Tebu population was coerced into moving to this region

3, 15 July 2010, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LY/A_HRC_WG.6_9_LBY_3_Libya.pdf.

⁷ Summary of Stakeholders’ submissions to the Universal Periodic Review of Libyan Arab Jamahiriya, A/HRW/WG.6/9/LBY/3, 15 July 2010, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LY/A_HRC_WG.6_9_LBY_3_Libya.pdf.

What happened to the Tebu when Gadaffi came into power?

Before Gadaffi, the Libyan authorities showed little interest in the area of desert where the Tebu lived or in the Tebu people, but this quickly changed. From 1973 onwards, Gadaffi started to push the Tebu out of the desert, declaring it a military area and establishing military bases in a number of places. This was part of a broader policy of Arabisation which Gadaffi was pursuing across the country, which included inviting Arabs from neighbouring states to move to Libya and marginalising non-Arab minorities like the Tebu. The Tebu became displaced. Some joined relatives in the cities in the North, others went to the towns of Morzuk and Al-Kufra, moved to the far South of the country along the frontier with Chad, or were displaced across the border into Chad, Niger and Sudan.

How were the Tebu affected by the dispute over the Aouzou strip?

The Tebu had become very dispersed across Libya. Those who had been living in the cities for some time had already been registered and received documentation under previous government initiatives, but many others had been overlooked and were undocumented. When Gadaffi took over the Aouzou strip, he decided that all Tebu would be made to re-register and that they must all do so in Aouzou. To comply with this, from around the country, Tebu went to Aouzou to register and they were issued (new) ID cards, family books and passports as Libyan citizens. Still some Tebu did not take advantage of this opportunity and remained without documents, but a great many got these Aouzou documents. Later, Chad took over the Aouzou strip and in 1994, the International Court of Justice recognised Chad’s claim to this area. There was a ceremonial hand-over as Aouzou fell under the flag of Chad, but generally

Tebu's Libyan nationality is not currently on the political agenda at all, so the National Assembly hopes to remedy that.

Can you tell us a little about the history of the Tebu in Libya?

'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. I believe that the Tebu were even mentioned in the works of the Ancient Greek Philosopher Herodotus. We speak Tebu, a Saharan language that uses Latin script, rather than Arabic which is now the principal language in Libya. We therefore constitute a linguistic, but also an ethnic and cultural minority group in Libya. I am not sure how many we number in total, but I would estimate that there are presently around 50,000 Tebu in this country.

When did the Tebu first encounter difficulties relating to the enjoyment of Libyan nationality?

First of all, it is important to realise that the Tebu are a traditionally nomadic people and in Libya we used to live mainly in an expanse of desert between Murzuk and Al-Kufra, in the South of the country. Following Libya's independence, the government took steps to register and issue civil documentation to the Libyan population. At that time, some Tebu had already settled in urban areas – including in the main coastal cities in the North – but many still lived largely in isolation. Those Tebu who lived in the towns were registered and obtained documents recognising them as Libyan nationals, but there was little effort to reach out to Tebu in the desert. As a result, many Tebu remained without any documentation at this time.

and registering for new documentation with the civil administration set up in Aouzou. Tebu people who had previously resided in and been issued documentation from other Libyan municipalities now largely came to hold documents from Aouzou.

Eventually, after several years of conflict as Chad bid to re-take control of the Aouzou strip, a ceasefire was reached in 1987. When the two parties could still not agree as to the territorial boundary between Libya and Chad, the question was brought before the International Court of Justice, with both governments agreeing to be bound by the court's decision. The ruling came on 3 February 1994, with the Court finding in Chad's favour – i.e. the Aouzou strip was Chadian territory.⁸ This settled the question and the boundary was recognised by Libya as delineated by the Court.

The border conflict between Chad and Libya over the Aouzou strip led to questions about the nationality Libya-Chad border as determined by the ICJ ruling in 1994 status of those resident in or otherwise associated with this area. In 1996, Gaddafi passed Decree No. 13 (1485) with a view to regulating the enjoyment of Libyan citizenship following Aouzou's return to Chadian sovereignty. Under this Decree, section D declared that "Those who carry the ID of that area [oAouzou] are considered as foreigners and all come under the jurisdiction of the laws applicable to foreigners". This appeared to be the rule, even if such individuals had actually been compelled to register in Aouzou and had their regular place of residence elsewhere in Libya – and regardless of whether they had acquired or maintained Chadian nationality. Given the history, the Tebu community are likely to have been particularly affected by this Decree and put at risk of statelessness.

A decade later, in 2007, the Libyan authorities began a policy of actively revoking citizenship documents from the Tebu, "stating

⁸ International Court of Justice, *Case concerning territorial dispute (Libyan Arab Jamahiriya / Chad)*, 3 February 1993, available at <http://www.icj-cij.org/docket/files/83/6897.pdf>.

that they were not Libyans but Chadians”.⁹ Again, there is no evidence that an actual assessment of Chadian nationality law or the citizenship status of any of the affected individuals was made, but rather this policy was implemented unilaterally and possibly arbitrarily. As a result, the 1996 and 2007 Libyan policies with respect to people holding documents from Aouzou may have led to cases of statelessness. A full survey or analysis of the impact of these decrees and the legal status of the individuals concerned has yet to be undertaken.

The ambiguity surrounding the legal status of the Tebu – and potentially others registered in Aouzou during the Libyan occupation of this area – is further complicated by a shift in policy during the final months of the Gadaffi regime. In an apparent bid to stave off any further opposition or open a new front for the revolution against the government in the South, Gadaffi reportedly annulled the 1996 Decree which had stripped nationality from anyone associated with Aouzou. To what extent this policy reversal was effectively communicated to the competent local and civil authorities at a time of chaos in the country is unclear. Moreover, while it appears that some progress may have been made towards allowing people to (re)confirm their Libyan nationality during the Revolution in Libya, it remains unclear what legal standing any decrees issued during the final months of Gadaffi’s rule have today. For instance, while on the one hand the 1996 Decree was reportedly annulled in 2011 and Aouzou document holders recognised as nationals again, on the other hand there were problems with registration for the 2012 elections as their status remained contested. In this context, election observers noted that 1085 voters were removed from the electoral register in Al-Kufra, with one of the given reasons being that of the cases of people who were

⁹ Summary of Stakeholders’ submissions to the Universal Periodic Review of Libyan Arab Jamahiriya, A/HRW/WG.6/9/LBY/3, 15 July 2010, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LY/A_HRC_WG.6_9_LBY_3_Libya.pdf.

“inhabitants of the Aouzou area and thus not citizens” according to the 1996 Decree.¹⁰ This is the extent of information provided in the report on the electoral process but does indicate that there remains a questionmark surrounding the nationality status of people associated with Aouzou. Regardless, the scale and reach of statelessness among the Tebu today is unknown.

For further details on the specifics of these developments and how they directly effected the Tebu population, the following section presents an in-depth interview with a member of the National Tebu Assembly, Mr. Mohammed A’Sunoussy. His extensive and authoritative knowledge of the situation of the Tebu people offers a unique insight into their position within Libyan society and under Libyan law.

An interview with Mr. Mohammed A’Sunoussy, National Tebu Assembly

Jordan, November 2012

What is the National Tebu Assembly?

The National Assembly is a non-governmental body established on 9 February 2012. It is an organisation whose mission is to represent the Tebu people – their views, interests and concerns – in interactions with the Libyan authorities, but also with other countries and the international community. Generally speaking, many Tebu feel that they now want to assert their rights and that they do not want to become displaced again, but many are also poorly educated so it is difficult to get organised as the community faces a lack of empowerment. Our situation and the issue of non-recognition of the

¹⁰ Carter Center News, *Carter Center Congratulates Libyans for holding historic elections*, 9 July 2012, available at <http://www.cartercenter.org/resources/pdfs/news/pr/libya-prelim-statement-070912.pdf>.