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# REPORT ON CITIZENSHIP LAW: EGYPT

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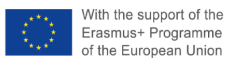
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# Report on Citizenship Law

## Egypt

*Dalia Malek*

### 1. Introduction

The concept of nationality in Egypt has undergone transformations throughout the history of the country, coinciding with colonial rule, independence, trends of emigration and migration, and the political climate. The circumstances of acquisition and loss of Egyptian citizenship are codified in the country's nationality laws and bolstered by the Constitution, with some special circumstances of ministerial and presidential decrees. However, implementation of these laws can be inconsistent and at times contrary to other laws and norms to which Egypt is bound, including those governing discrimination, religious rights, political rights, freedom of expression, and freedom of assembly.

Throughout the colonial period, the nascent notion of Egyptian identity evolved until its first codification and enactment in 1900 under Ottoman rule as a legal definition, albeit undetailed, resembling the modern understanding of nationality. Through the First World War, the characterisation of who constituted an 'Egyptian' became increasingly precise under British and French rule, mostly based on periods of residence and pointing to the watershed date of 5 November 1914 when Ottoman rule ended, and experienced additional revisions through the 1920s. It was not until the 1950s that Egypt began seriously modifying its nationality laws to encompass more nuanced issues of citizenship such as addressing statelessness and articulating reactions to the political climate at the time. The idea of 'Zionism' was denounced, precluding Zionists from Egyptian nationality. Emigration, a once discouraged practice, became gradually embraced throughout the 1970s and 1980s by Egypt's changing governments, which eventually took advantage of its workforce based on perceived economic need, unemployment rates, overpopulation, profession quotas, and international relations with receiving countries. The enactment of Law No. 26 of 1975 Concerning Egyptian Nationality that is in current use today presented a codification of the circumstances surrounding acquisition and withdrawal of citizenship. It details acquisition of citizenship through marriage, birth, and naturalisation and loss of citizenship through crime, treason, forgery, or endangering national security.

Strong movements of human rights groups, progressive lawyers, and community-based organisations made their imprints on Egypt's citizenship laws, particularly Law 26/1975. Their influence helped remove gender discrimination from the citizenship law in 2004, allowing Egyptian women married to non-Egyptian men to confer citizenship to their offspring. Emigrants and dual citizens continued to experience differential treatment from the government and courts when it came to rights enjoyed by single nationality Egyptians, particularly in the realms of land ownership and the exercising of political rights. The so-called Arab Spring that was ignited in January 2011 in Egypt acted as a catalyst that paved the way for continued activism and popular demands for individual rights beyond the ouster of the late former President Hosni Mubarak. These movements led to changes in legislation affecting citizenship

rights, such as gaining voting rights for Egyptians abroad, as well as the right for dual citizens to run for Parliament. Public protest also led to extending naturalisation to the children of Palestinian fathers married to Egyptian mothers who were previously an exception to the benefits of the 2004 amendment.

Beyond the piecemeal realisation of citizenship rights for various groups in Egypt, a regime of social and political repression has ultimately continued to deny minority groups access to citizenship rights including the right to citizenship itself. Religious minorities such as Egypt's Baha'i population have encountered obstacles in the way of citizenship rights and a continued risk of statelessness, those who have exercised their rights to free speech and assembly have been punished with the revocation of citizenship, sometimes also resulting in statelessness. Loose associations with Israel through unpolitical actions such as obtaining dual citizenship, travel, or marriage to individuals possessing Israeli nationality have beckoned the stigmatisation of being associated with political 'Zionism', being condemned with labels such as political opponent, spy, or enemy of the state. Other minority groups such as persons with disabilities are excluded from acquisition of citizenship by discriminatory language in Egyptian law, which requires reconciliation with their existing rights to non-discrimination found in other national and international legal instruments. Egyptians who have been censured for political or human rights activism are vilified with the label of 'terrorism', with the repercussion of prosecution under an internationally condemned set of anti-terrorism laws that grant the State broadly sweeping powers to extinguish opposition with this politically charged designation. Diasporic Egyptians who have been castigated for activism or opposition experience transnational repression while living in exile abroad, also risking the loss of citizenship and potential statelessness for their divergent views. Advancements in the citizenship laws have led to some improvements for individual rights, but ultimately have been inadequate and require reform.

## 2. Historical background of citizenship law in Egypt

### 2.1 Ottoman Egypt

During the colonial period, the idea of nationality and thus Egyptian citizenship law were not clearly defined. Under the Ottomans, Egyptians were not differentiated from Ottomans under the first Ottoman Nationality Law of 1869 and were considered Ottoman citizens throughout the 1890s. In 1900, an Egyptian Decree-Law was enacted and published in *Al-Waqa'i Al-Misriyyah*, the Arabic-Ottoman Turkish language 'Egyptian Affairs' gazette established under Mohamed Ali. However, this Decree-Law only served to distinguish between Egyptians and Ottomans.<sup>1</sup>

### 2.2 Egypt under Britain and France

On 5 November 1914, during World War I, Britain and France declared war on the Ottoman Empire. Britain ended Ottoman rule in Egypt and the Khedivate of Egypt became the Sultanate of Egypt, a British protectorate. Article 17 of the Treaty of Lausanne of 1923 indicated that

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<sup>1</sup> Al Waqa'i al-Misriyyah (WM) 70, No. 74, 4 July 1900.

Turkey would renounce all rights and titles over Egypt and Sudan, taking effect from 5 November 1914.<sup>2</sup> This watershed date has been referenced in subsequent Egyptian nationality laws, including in the current citizenship regime. The Decree-Law of 26 May 1926 aimed to differentiate the status of former Ottoman subjects, and Ottoman subjects who resided in Egypt after 5 November 1914 until the enactment of the 1926 Decree-Law were considered Egyptian nationals.<sup>3</sup> Articles 6 and 7 of the 1926 Decree-Law allowed former Ottoman subjects, if they resided in Egypt on or after 5 November 1914, to acquire Egyptian nationality. Article 9 provided that Ottoman subjects who had never before resided in Egypt would be able to transfer their residence to Egypt within one year and acquire Egyptian nationality after five years. This key date of 5 November 1914 is referenced in modern Egyptian nationality law as one of the defining characteristics of who is recognised as Egyptian.

Law No. 19 of 1920, the Egyptian nationality law that was passed on 27 February 1929 during colonial rule, determined who was considered an Egyptian. Article 5 upheld *jus sanguinis*. Article 6(2) defined an Egyptian as someone who is born within or outside of Egyptian territory, the latter of which could be to an Egyptian mother if the father's lineage was unknown. Article 6(3) extended automatic Egyptian nationality to the foreign wife of an Egyptian husband. Article 6(4) introduced *jus soli* for children born in Egypt to a foreign father born in Egypt and coming from an ethnicity whose majority population's religion is Islam or whose language is Arabic. Article 7 provided Egyptian nationality to individuals born and permanently residing in Egypt if claimed at the age of majority. Articles 12-14 articulated the circumstances under which nationality could be lost or withdrawn, including 14(2) which indicated that an Egyptian woman who married a foreign husband would automatically lose her Egyptian nationality if she chose to acquire her husband's foreign nationality.

### 2.3 Statelessness

Law 19/1929 remained in force until 18 September 1950, when it was repealed by Law 160/1950. Changes affecting nationality marked the period leading up to Law 160/1950, including a growing national liberation movement against British occupation, especially following World War II. From 1875, foreign nationals from certain countries, including Britain, were afforded a set of privileges exempting them from Egyptian law and granting them the ability to be tried in special 'mixed courts', which were abolished in 1949. The establishment of the State of Israel in 1948 also led to the flight of many Palestinian refugees to neighbouring countries, including Egypt, where they were considered stateless. Law 160/1950 was the first of the Egyptian nationality laws to address statelessness by mentioning stateless fathers. Article 2(2) defined an Egyptian as someone who was born in Egypt to an Egyptian mother and a father of unknown nationality or who has no nationality. Article 2(3) allowed children born outside of Egypt to an Egyptian mother and a father who is stateless or of unknown nationality to notify the Minister of Interior within one year of reaching the age of majority, and nationality would be conferred automatically without the discretionary power of the State.

<sup>2</sup> Treaty of Peace with Turkey Signed at Lausanne, 24 July 1923.

<sup>3</sup> See generally 'Africa Citizenship and Discrimination Audit: The Case Study of Egypt', Open Society Justice Initiative, report by the Center for Migration and Refugee Studies, American University in Cairo, May 2005, Chapter 2 for an overview of Egyptian nationality laws from 1926 until 1975. For an assessment of nationality in the modern Egyptian nation-state following independence from the Ottomans, particularly from 1926 until 1975, see Gianluca P. Parolin, *Citizenship in the Arab World: Kin, Religion, and Nation-State*, Amsterdam University Press, 2009, pp. 79-82.

## 2.4 Independence

Egypt's next nationality law, Law No. 391 of 1956, was influenced by the historical events in Egypt and the broader region at the time. On 23 July 1952, what is known as the 23 July Revolution or the Egyptian Revolution of 1952 took place.<sup>4</sup> A group of army officers joined together under the leadership of General Mohamed Naguib and Gamal Abdel Nasser to overthrow the monarchy in a coup. In 1953, Sudan held a referendum in order to commence a transitional period determining whether to join in a union with Egypt or obtain independence. In April 1953, talks to evacuate the British from the Suez Canal Company began, were interrupted by guerrilla attacks and a worker boycott, and then resumed again in October 1954, when an agreement was signed determining that the British would evacuate its military personnel from the Canal Zone by June 1956. That same year, Sudan decided to become independent, which formally began on 1 January 1956. These events led to a rise in anti-Western and anti-royal sentiments, which served as a backdrop for Law 391/1956.

## 2.5 Anti-Zionism and anti-Semitism

Growing anti-Zionism in Egypt became reflected in Law 391/1956, which mentioned 'Zionism' for the first time in Egyptian nationality law.<sup>5</sup> By 1947, Egypt's Jewish population was comprised of about 80,000 out of a total population of 19 million, a quarter of whom possessed Egyptian nationality through the 1929 nationality law, another quarter of whom held foreign citizenship, and half of whom were stateless.<sup>6</sup> Egypt's Jewish community was diverse, and official data on the numbers of foreigners living in Egypt, as well as those who were Jewish and holding Egyptian or foreign nationalities, are challenging to differentiate when examining the literature. Jewish immigrants came to Egypt from all over the world and immigration trends led to an increase in Egypt's Jewish community, with 25,000 in 1897 and over 60,000 by 1927.<sup>7</sup> Because they came from such varied geographic, linguistic, ethnic, cultural, and social backgrounds, over time the Jewish population was not necessarily cohesive or unified merely because of their attachment to Jewish traditions and lineages.

From 1956 until the present day, Zionism has been a criterion for withdrawal of Egyptian nationality as a result of growing anti-Zionism and its conflation with and transformation into anti-Semitism. As World War II was nearing its end, Zionists escalated a campaign for Britain, which had occupied Palestine since September 1918 following its defeat of the Ottomans, to lift sanctions on Jewish immigration to Palestine. Britain referred the 'Palestine problem' to the United Nations in February 1947, which resulted in the UN General Assembly Resolution 181 on 29 November 1947 recommending the partitioning of Palestine. Conflict began in Palestine and Palestinians began fleeing their homes, many of them to Egypt. The first war for Palestine began in April 1948 and by 9 May 1948, the Egyptian government established the Higher Committee for Palestinian Immigrant Affairs to address the wave of

<sup>4</sup> See Afaf Lutfi Al-Sayyid Marsot, *A History of Egypt: From the Arab Conquest to the Present*, 2<sup>nd</sup> ed., Cambridge University Press 2007, pp. 123-130 for a contextualisation of Egyptian and Sudanese independence.

<sup>5</sup> See Thomas Mayer 'Egypt's 1948 Invasion of Palestine', *Middle Eastern Studies*, January 1986, Vol. 22., No. 1, pp. 20-36 for a background on the reasoning and opinions of Egyptian politicians leading up to Egypt's unanticipated involvement in Palestine, as well as a discussion of Zionism in Egyptian politics in the 1940s.

<sup>6</sup> M. Laskier, 'Egyptian Jewry under the Nasser regime: 1956-70', *Middle Eastern Studies*, Vol. 31, No. 3, July 1995, pp. 2-4, 7-8, 21, and 23.

<sup>7</sup> Gudrun Krämer, *The Jews in Modern Egypt, 1914-1952*, University of Washington Press 1989, p. 9.

refugees entering the country. Israel announced its establishment as a State on 14 May 1948, and on 15 May 1948, Egypt invaded Palestine as a part of a coalition of Arab states defending against Israel. Egypt was ill-prepared for its military intervention and suffered defeat. Alongside the influx of Palestinian refugees, which led to intermarriages and questions of conferring Egyptian nationality, anti-Zionism also co-existed with increasing anti-Semitism against Egypt's own Jewish community. Anti-Semitic attacks on Jewish institutions began taking place, particularly between 1945 and 1947.

On 23 November 1956, the Minister of Religious Affairs declared Egypt's Jewish community as enemies of the state and ordered them to be expelled. Because Egypt's Jewish community was once a thriving and diverse population, deportees were comprised of a mix of identities. Egypt's dwindling Jewish population during the 1950s and especially after 1956 who were deported included Egyptian nationals, stateless individuals who were unable to acquire Egyptian citizenship, and Jewish immigrants and those who possessed the citizenship of other countries. Many fled to European countries or to Israel. The number of Jewish Egyptians present in Egypt has steadily decreased until the present day. Despite Judaism being one of the three religions that the Egyptian government recognises, Jewish citizens have reported experiencing problems in acquiring identity documents and birth certificates. Minority Rights Group International provides the example of Magda Haroun, who is known for being a leader of the Egyptian Jewish community, stating that 'State employees have frequently asked about her religion and an official, apparently sceptical about her nationality, reportedly requested her address and other personal details for "security reasons" before he would issue her with a copy of her birth certificate'.<sup>8</sup> Egypt remains a hostile environment for Jewish Egyptians, and besides threats to religious rights and cultural preservation, hate speech is 'the most notable violation against [Egypt's] Jewish community'.<sup>9</sup> Anti-Semitic rhetoric coupled with aggression toward the actions of the Israeli government leads to the association with and indictment for Zionism, and the additional danger of loss of citizenship.

## 2.6 UAR

On 1 February 1958, Egypt and Syria merged to create what was known as the United Arab Republic (UAR). A new nationality law, No. 82 of 1958, was adopted defining UAR nationality, and it was comprised of the same language as the preceding nationality law, substituting 'Egyptian' with 'UAR' nationality. The southern region of the Republic was considered the Egyptian region, and the northern region was the Syrian region. During this time, Egyptian women from the southern region who were married to Syrian men from the northern region could automatically confer UAR citizenship to their children. This union dissolved when Syria declared itself independent from Egypt in a coup on 28 September 1961. Despite the dissolution of the UAR, another nationality law was not immediately drafted and Law No. 82 of 1958 remained in use until the enactment of the law that is used to define Egyptian nationality in the present day, Law No. 26 of 1975. During the interim, courts ruled that following Syria's independence, the provisions of Law No. 82 of 1958 only applied to Egyptians. Children who were born from marriages between Egyptian women and Syrian men who had previously had UAR nationality were not considered Egyptian citizens under the new Law 26/1975.

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<sup>8</sup> Minority Rights Group International, 'Submission to the UN Special Rapporteur on Freedom of Religion or Belief, Report to the UN General Assembly on Anti-Semitism', June 2019, p. 3.

<sup>9</sup> *Id.* at 2.



## 2.7 Gender discrimination

Article 2(1) of Law 26/1975 defines Egyptians as those born to Egyptian fathers, while Article 2(2) defines Egyptians as being those who are born to an Egyptian mother and a father whose nationality is unknown or who is stateless. At the time that Law 26/1975 was enacted, the constitution in place was that of 1971. Article 11 of the 1971 Constitution ensured the equality of women with men including in all political, social, cultural, and economic aspects of life.<sup>10</sup> Political parties, non-governmental organisations (NGOs), civil society institutions, human rights groups, and women's rights groups, applied public pressure to the government of Egypt to amend Article 2(1) of Law 26/1975 on the grounds that it was unconstitutional and discriminated against women. The National Progressive Unionist Party, *Hezb Al-Tagamo'*, a political opposition party, proposed a bill to Parliament in 1992 to amend law 26/1975 and grant Egyptian women the same rights as Egyptian men in conferring nationality to their children. This bill was not passed, but NGOs and women's groups continued to pressure the government to make gradual changes easing this form of discrimination against women until it was eventually eliminated.

Scholars and activists consider Egypt's preparations for its involvement in the United Nations International Conference on Population and Development (ICPD) in Cairo in September 1994 as a significant milestone for the Egyptian women's movement in the NGO sphere. Leading up to the ICPD, a forum of over 400 Egyptian NGOs was created, which included a gender task force. This was a previously non-existent space for women's groups to find a platform for gender issues to be discussed, and this included the discriminatory Egyptian nationality law.<sup>11</sup> On 20 December 1994, the Minister of Interior issued Decree No. 353 exempting students who were born to divorced or widowed Egyptian mothers from paying the educational fees required of non-Egyptian children, instead treating them the same as Egyptian nationals.<sup>12</sup> This did not affect nationality rights outright, but constituted an initial acknowledgment by the Government of Egypt that education equality for the children of Egyptian mothers was a step toward gender equality.<sup>13</sup> NGOs increasingly addressed the place of women in the nationality law throughout the 1990s in seminars, conferences, and research.

Judges, commissioners, and human rights lawyers also became involved in the movement to amend Law 26/1975, and more cases went to court so that individuals could claim their right to Egyptian nationality through their Egyptian mothers. An Egyptian woman took case 3136 of the Judicial Year 45 to the Alexandria Administrative Court on behalf of her minor son born of a Jordanian father, challenging the constitutionality of Law 26/1975. The

<sup>10</sup> Constitution of Egypt 1971 [hereinafter *1971 Constitution*], Art 11.

<sup>11</sup> *See generally* Nadje S. Al-Ali, 'The Women's Movement in Egypt, with Selected References to Turkey', United Nations Research Institute for Social Development, Civil Society and Social Movements Programme Paper No. 5, April 2002, pp. 11-12 for an overview of the preparation for and aftermath of the ICPD in Cairo.

<sup>12</sup> Committee on the Elimination of Discrimination Against Women (CEDAW) 24<sup>th</sup> Session, 15 January-2 February 2001, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women, Combined fourth and fifth periodic reports of States parties – Egypt, 30 March 2000, Original: Arabic, pp. 31-32, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/382/60/PDF/N0038260.pdf?OpenElement>.

<sup>13</sup>, *See generally* 'Africa Citizenship and Discrimination Audit: The Case Study of Egypt', Open Society Justice Initiative, report by the Center for Migration and Refugee Studies, American University in Cairo, May 2005, Chapter 2, pp. 42-48 for a discussion of the impact of civil society and women's rights groups on the amendment of Law 26/1975. Amal Abdel Hadi, the author of this chapter, is critical of the efficacy of this ministerial ordinance as it contained several stipulations including that it only applied to women who were divorced, widowed, or in need, and women were also required to prove that the location of their husbands was unknown.

son was denied Egyptian nationality, and after he reached adulthood, he appealed the court's decision and requested Egyptian citizenship. The Court recognised his appeal in March 1997. Meanwhile, in 1998 a coalition of NGOs convened to monitor Egypt's implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This coalition advocated for Egypt's withdrawal of its reservation on Article 9(2) the Convention,<sup>14</sup> and also participated in a campaign in favour of amending Law 26/1975. In May 1999, in light of the case of the Egyptian-Jordanian man, the State Court Cases Authority presented a report to the Constitutional Court in which it argued on behalf of the State, recommending that the Court reject the appeal for reasons of state sovereignty, an incomplete appeal, and the State's discretionary power. That same year, the Constitutional Court requested that the State Commissioners Authority present a report on the constitutionality of Law 26/1975. This report declared Articles 2 and 3 of the law to be unconstitutional, and it referenced Egypt's international obligations under CEDAW vis-à-vis the expansion of Egypt's women's movement. The case reached the Supreme Constitutional Court (SCC), and in 2004 the SCC determined that Article 2 of Law 26/1975 was unconstitutional and discriminated against women on the basis of gender. On 14 July 2004, Law No. 154 of 2004 amended Article 2 to include those born to Egyptian mothers in addition to Egyptian fathers, adding that it would be implemented with a retroactive effect. Law 154/2004 also repealed Article 3 of Law 26/1975, granting Egyptian citizenship to children of an Egyptian mother and a father whose nationality is unknown or stateless if their birth took place in Egypt.

## 2.8 Constitution

Egypt has had several constitutions throughout history that point to the right to nationality. In the Constitution of 1971, Article 6 stated that the Egyptian nationality is defined by law. At that time, the relevant citizenship law was Law No. 82 of 1958. Despite the government's previous practice of withdrawing Egyptian nationality from those who emigrated for six months or longer under Law 391 of 1956, Article 52 of the 1971 Constitution also addressed immigration as a right for Egyptians. This article specified that immigration may be temporary or permanent and added that this right will be regulated by the law including the forms and conditions of immigration and exit of Egypt.<sup>15</sup> Following the so-called Arab Spring that began in Egypt on 25 January 2011 and the ouster of the late former President Hosni Mubarak on 11 February 2011, Egypt acquired new versions of the Constitution in 2012 and 2014. The reference to Egyptian nationality being a right defined by law remained the same throughout these iterations of the Constitution, retaining mostly the same language that now points to Law No. 26 of 1975 Concerning Egyptian Nationality. Article 32 of the 2012 Constitution simply stated that Egyptian nationality is a right recognised by law. Following the removal of the late former President Mohamed Morsi in a coup in July 2013, the 2012 Constitution was suspended. In the 2014 Constitution currently used in the present day, Article 6 specifies that Egyptian

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<sup>14</sup> Article 9(2) of CEDAW states that 'States Parties shall grant women equal rights with men to acquire, change, or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless, or force upon her the nationality of the husband',

[https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&lang=en). Egypt withdrew its reservation on this article on 4 January 2008.

<sup>15</sup> 1971 Constitution, *supra* note 10 at Art 52.

nationality is a right to ‘anyone born of an Egyptian father or an Egyptian mother’,<sup>16</sup> reflecting the removal of gender discrimination from Law 26/1975 with the 2004 amendment.

## 2.9 Withdrawal of the citizenship of Egyptian emigrants

As a result of rising nationalism surrounding the enactment of Law 391/1956, emigration was not a priority of the Egyptian government under President Gamal Abdel-Nasser. The Egyptian government imposed obstacles on Egyptians leaving the country, particularly for longer periods such as for seeking employment abroad. Law 391/1956 explicitly discouraged Egyptian emigration and Article 19 introduced the withdrawal of Egyptian nationality of those who left Egypt for six months or longer without the intention of returning to Egypt.

Throughout the 1950s and 1960s, migration policy in Egypt continued to be characterised by hurdles and was contingent on a number of factors including population growth, the status of Egypt’s economy and unemployment rates, and the demand or surplus of manpower in certain professions.<sup>17</sup> In the early 1960s, Egypt instated exit visas, adding another bureaucratic barrier to emigration. In the mid-1960s, Egypt began encouraging some emigration with limits through various new policies. One of these was a ‘conscription’ policy wherein the government delegated certain professions for individuals based on the country’s overall need for those professions. Conscription employees did not have the right to resign or emigrate for the duration of their contracts. For example, medical doctors, engineers, dentists, and pharmacists were conscripted.

Another was Egypt’s ‘secondment’ policy, where the Egyptian government selected individuals of certain professions to send to other countries for work. Teachers, the profession comprising the greatest number of emigrants, mostly travelled to Arab countries to work. To address a growing overpopulation problem, from 1967 to the early 1970s the Egyptian government established bilateral agreements with receiving countries of Egyptian emigrants. In 1974, the Egyptian government did away with exit visas, replaced them with travel permits obtainable through employers, decentralised the process of obtaining an Egyptian passport, and provided male sons of Egyptian migrants with the possibility for exemption from the mandatory military service under special circumstances.

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<sup>16</sup> Constitution of Egypt 2014 [hereinafter *2014 Constitution*], Art 6.

<sup>17</sup> See generally Ali E. Hillal Dessouki, ‘The Shift in Egypt’s Migration Policy: 1952-1978’, *Middle Eastern Studies*, Vol. 18, No. 1, January 1982, pp. 53-68 for a detailed examination including numbers of Egyptian emigrants during the evolution of Egypt’s migration policies. Dessouki notes on p. 57 that as the Egyptian government regulated emigration in 1970, professions that it considered ‘critical’ at the time and that were thus discouraged from emigration included the areas of ‘medicine, dentistry, pharmacology, nursing, chiropractic, veterinary, engineering, architecture, statistics, and high school teachers of language, geography, and history’. Those who were free to emigrate included university graduates in fields such as ‘agriculture, law, Islamic Studies, fine and applied arts, economics, and political science’.

### 3. The current citizenship regime

#### 3.1 The main modes of acquisition of nationality

Modern Egyptian citizenship law remains articulated mainly in Law No. 26 of 1975 Concerning Egyptian Nationality, published in the Official Gazette Vol. 29 on 29 May 1975. As mentioned above, the Egyptian Constitution of 2014, which is the most recent in Egypt's succession of constitutions and is in current use, references the right to a nationality for anyone born of an Egyptian mother or an Egyptian father and provides that the requirements for acquiring nationality are specified by law. Law No. 111 of 1983 also remains in place, conferring duties on the Egyptian states and providing Egyptian emigrants with rights. According to Article 29 of Law 26/1975, the Ministry of Interior is responsible for making decisions determining citizenship and may withdraw nationality or deny naturalisation applications. The rights of citizens are also articulated in other Egyptian legislation, mainly ministerial and presidential decrees and decisions.

##### 3.1.1 Individuals affected by old nationality laws, *jus sanguinis* and *jus soli* acquisition

Article 1 of Law 26 of 1975 defines those who are considered Egyptians, first by mentioning those who settled in Egypt before 5 November 1914, the date that Britain ended Ottoman rule in Egypt and made the country a British protectorate. Article 1 also defines Egyptians as those who were considered Egyptian nationals as a result of Law No. 391 of 1956 concerning Egyptian nationality and Law No. 82 of 1958 concerning UAR nationality.

In addition to those considered Egyptians by these older nationality laws, Article 2 provided that Egyptian citizenship can be acquired by *jus sanguinis* and *jus soli* means, with a range of required conditions, stating that 'Egyptians' are:

1. Those who were born of Egyptian fathers.
2. Those who were born in Egypt of an Egyptian mother, and a father whose nationality is unknown or who is stateless.
3. Those who were born in Egypt, of an Egyptian mother but their kinship to the father has not been proven legally.
4. Those who were born in Egypt of unknown parents. A foundling in Egypt shall be considered as born in it, unless otherwise proved.<sup>18</sup>

As discussed above, children of Egyptians could only receive citizenship through their father until an amendment removed gender discrimination from the law in 2004. *Jus soli* acquisition has only been an automatic right available to foundlings. However, naturalisation is possible through discretionary means articulated in Article 4, which says that Egyptian nationality may be granted by the Minister of Interior to anyone born in Egypt to Egyptian parents,<sup>19</sup> to anyone of Egyptian origin born in Egypt who applies for citizenship after five years of residence and having reached the age of majority (21),<sup>20</sup> or to any non-Egyptian born in Egypt and belonging to a country whose majority of inhabitants' language is Arabic or religion is Islam after applying for citizenship after one year of residence and having reached

<sup>18</sup> Law No. 26 of 1975 Concerning Egyptian Nationality [hereinafter *1975 Citizenship Law*], Art 2.

<sup>19</sup> *Id.* at Art 4(1).

<sup>20</sup> *1975 Citizenship Law*, *supra* note 18 at Art 4(2).

the age of majority.<sup>21</sup> Failing to meet these criteria may lead to a non-Egyptian being considered for naturalisation through a scheme requiring ten years' residence in Egypt, provided that the individual 'be mentally sane and suffering from no disability rendering him a burden on society',<sup>22</sup> that the individual 'be of good conduct and reputation, and that no criminal penalty or penalty restricting his freedom should have been passed against him in a crime against honor, unless he has been rehabilitated',<sup>23</sup> that the individual 'be acquainted with the Arabic language',<sup>24</sup> and that the individual 'have a legal means of earning his living'.<sup>25</sup> It is also possible for a foreigner to obtain citizenship by rendering honourable services to Egypt or to the heads of Egyptian religious sects.<sup>26</sup>

### 3.1.2 Marriage

Egypt only recognises heterosexual marriage between a man and a woman. Individuals may obtain Egyptian nationality through marriage to an Egyptian citizen, but it is not automatic and it requires permission from the Minister of Interior. The non-Egyptian wife of an Egyptian man can obtain citizenship through her husband if she notifies the Minister of Interior after two years of marriage, at the Minister of Interior's discretion.<sup>27</sup> If a non-Egyptian woman obtains Egyptian nationality through her spouse and the marriage is terminated after she acquires Egyptian citizenship through him, she will not lose her nationality unless she restores her previous nationality or marries a non-Egyptian of another nationality and acquires his citizenship.<sup>28</sup>

## 3.2 The main modes of loss of nationality

### 3.2.1 Loss of citizenship and denial of naturalisation applications

Article 15 of Law 26/1975 provides that the Council of Ministers may withdraw nationality if it is discovered that it was acquired through forged means or false statements. The Minister of Interior may also revoke citizenship from an individual who has acquired citizenship through marriage or naturalisation and then had a 'sentence passed against him in a criminal offence, or a penalty restricting his freedom in a crime of honour', 'if a court ruling has been passed against him in a crime against the security of the State, either from outside or within the country', or 'if he failed to reside in Egypt for two consecutive years, and his absence has been without a reason acceptable to the Minister of Interior'.<sup>29</sup> Article 16 of 26/1975 also discusses loss of citizenship, stating that the Council of Ministers may strip an individual of nationality from anyone who obtains another nationality without notifying the Minister of Interior or joins a military service in another country without licence from the Minister of War.<sup>30</sup> If an Egyptian citizen's habitual residence is in another country, the Minister of Interior may withdraw

<sup>21</sup> 1975 Citizenship Law, *supra* note 18 at Art 4(3).

<sup>22</sup> 1975 Citizenship Law, *supra* note 18 at Art 4(4)(i); this law's discrimination against persons with disabilities will be discussed further below.

<sup>23</sup> 1975 Citizenship Law, *supra* note 18 at Art 4(4)(ii).

<sup>24</sup> 1975 Citizenship Law, *supra* note 18 at Art 4(4)(iii).

<sup>25</sup> 1975 Citizenship Law, *supra* note 18 at Art 4(4)(iv).

<sup>26</sup> 1975 Citizenship Law, *supra* note 18 at Art 5.

<sup>27</sup> 1975 Citizenship Law, *supra* note 18 at 18, Art 7.

<sup>28</sup> 1975 Citizenship Law, *supra* note 18 at Art 8.

<sup>29</sup> 1975 Citizenship Law, *supra* note 18 at Art 15(1)-(3).

<sup>30</sup> 1975 Citizenship Law, *supra* note 18 at Art 16(1)-(2).

citizenship from an individual if a foreign court issues a ruling for a crime against State security, if the individual accepts a post with a foreign government or international body that constitutes a threat to Egypt's security and refuses to resign, if the individual joins a foreign agency whose purposes is to undermine the social or economic order of Egypt by use of force or other illegal means, if the individual works for a foreign government that is at war with Egypt or with whom diplomatic relations have been severed where such work would harm Egypt's military, diplomatic or economic situation, or national interests, or if the individual qualifies as a Zionist.<sup>31</sup>

### 3.2.2 Dual citizenship and reinstatement of previously withdrawn nationality

In 1975, Law No. 26 of 1975 stopped including the withdrawal of Egyptian citizenship as a consequence of emigration and it provided Egyptians living abroad with the right to confer citizenship to their children. Thus, Article 10 provided Egyptians with the right to possess dual citizenship with the approval of the Minister of Interior. In 1983, Law No. 111 of 1983 on The Emigration and Sponsorship of Egyptians Abroad was enacted mainly to address the rights of Egyptians living abroad and to differentiate the statuses of 'temporary' workers and 'permanent' migrants and the rights of Egyptians abroad such as exemptions from paying taxes in Egypt. However, the law also served to reinstate the Egyptian citizenship of emigrants who previously had lost it for living abroad (Article 20) and it applied with retroactive effect.

## 3.3 Specific rules and status for certain (numerically and politically important) groups

### 3.3.1 Gender discrimination and Palestinian fathers

Although Law No. 154 of 2004 was a positive step toward eliminating gender discrimination from Article 2 of Law 26/1975 by providing Egyptian women with the ability to confer nationality to their children, this right was not extended to Palestinians. Among other justifications, a recommendation by the Arab League in 1959 *de facto* prevented this amendment from being extended to those born of Egyptian mothers and Palestinian fathers,<sup>32</sup> as did UN General Assembly Resolution 194 (III). The 1965 Casablanca Protocol for the Treatment of Palestinians in Arab States ('Casablanca Protocol') emphasised the importance of preserving Palestinian identity. An often-repeated argument in favour of this practice was that allowing Palestinians to acquire foreign citizenships would compromise their Palestinian identity and jeopardise their right of return.<sup>33</sup> The 2004 amendment to the 1975 Citizenship Law continued to exclude children of Palestinian fathers until the time of the so-called Arab Spring in 2011 when protests and sit-ins were regularly taking place. Egyptian women married to Palestinian men mobilised and protested in Tahrir Square in Cairo, verbalising the barriers

<sup>31</sup> 1975 Citizenship Law, *supra* note 18 at Art 16(3)-(7).

<sup>32</sup> See Oroub El-Abed, *Unprotected: Palestinians in Egypt Since 1949*, Institute for Palestine Studies, 2009, p. 53 for more on the 'mixed' implementation of the 2004 Amendment with regard to Palestinians; also see footnote 41 on p. 57 clarifying that this information was obtained through the author's consultation with Cairo-based lawyers. Also see p. 182 where El-Abed calls the exclusion of Palestinians from the 2004 amendment an 'unwritten policy' and p. 183, which indicates that the Egyptian Ministry of the Interior has referred to the 1959 protocol specifically in the context of Palestinians being unable to obtain citizenship through the 2004 amendment to the 1975 Citizenship Law, which has been their explanation for denying Palestinian citizenship applications.

<sup>33</sup> *Id.* at 182-183. According to El-Abed, in practice '...Palestinians must be deprived of their rights in order to preserve their Palestinian identity'.

they faced in accessing the basic rights of work and travel, as well as the difficulties their children faced in accessing education and acquiring work permits after completing their education. These actions led to a decision by the Minister of Interior, Decree 1231 of 2011, issued on 2 May 2011, allowing for Egyptian women married to Palestinian men to confer nationality to their children without the exclusion that was previously implemented.<sup>34</sup>

In practice, some Palestinians who have acquired Egyptian nationality have had their nationality revoked with the authorities citing national security grounds. In 2014, the current President Abdel-Fattah El-Sisi requested a report on the approximately 13,000 Palestinians who had obtained Egyptian citizenship since 2011 investigating potential affiliations with extremist groups.<sup>35</sup> Several of these citizenships were granted during the presidency of the late Mohamed Morsi, who was the leader of the Muslim Brotherhood party, which has been reviled and targeted by the current government. After Morsi was ousted in a military coup, security sources claimed that these citizenships were obtained fraudulently. They also alleged that some of these Palestinians holding Egyptian citizenship may be linked to assaults on Egypt or attacks on Egyptian police that provided Morsi with the opportunity to escape from prison during the unrest in 2011.<sup>36</sup>

### *3.3.2 Social and political rights of emigrants and individuals holding more than one citizenship*

Social and political rights are bestowed through a hierarchy of rights based on citizenship status such that dual citizens face greater restrictions than those who solely possess Egyptian citizenship, but fewer restrictions than non-nationals. For example, individuals of Egyptian origin or non-Egyptians who marry Egyptian citizens may enjoy access to expedited naturalisation. The right to own land and property differs depending on the type of land or property, as well as its location. Non-Egyptians may not own agricultural lands, though there have been some exceptions throughout history.<sup>37</sup> Similar restrictions apply to non-Egyptians for the ownership of vacant land, real estate, or desert land. Egyptians with more than one nationality have had differing voting rights than those with sole Egyptian nationality, and those with multiple nationalities have faced restrictions with regard to political candidacy.

#### (a) Ownership of land in the Sinai Peninsula

Ownership of land in the Sinai Peninsula has particular restrictions for both non-Egyptians and Egyptians who hold dual nationality. Decree-Law No. 14 of 2012 Concerning the Integrated Development of the Sinai Peninsula requires that Egyptians who own land in the Sinai Peninsula be born to parents who both hold Egyptian citizenship. Under this law, dual nationals, naturalised Egyptians, and Egyptians with a foreign parent became excluded from

<sup>34</sup> Katherine Franke, 'Egyptian Women and Palestinian Men Can Now Confer Egyptian Citizenship on their Children: Regional Implications', Gender & Sexuality Law Blog, Columbia Law School, 17<sup>th</sup> May 2011 <http://blogs.law.columbia.edu/genderandsexualitylawblog/2011/05/17/egyptian-women-can-now-confer-citizenship-on-their-children-regional-implications/>.

<sup>35</sup> Egypt Independent, 'Egyptian nationality stripped from 800, including Palestinians' 29 October 2014 <https://www.egyptindependent.com/egyptian-nationality-stripped-800-including-palestinians/>.

<sup>36</sup> *Id.*

<sup>37</sup> In 1951, Egypt banned non-Egyptians from owning agricultural land through Law No. 37 of 1951, with the exceptions of inheritance, receiving the land through a will or as a gift, or having owned the land prior to the enactment of the 1951 law. Law No. 15 of 1963 did away with the exception of having owned agricultural land prior to the enactment of the 1951 law and banned its ownership by non-Egyptians, with the exception of Palestinians. Palestinians also eventually lost the right to own agricultural land following the promulgation of Law No. 104 of 1985.

ownership of land and property in the Sinai Peninsula. Those who already possessed such land or property through inheritance, will, or gift became required to dispose of it within six months of the previous owner's death, and failing to do so resulted in the State taking ownership of the land or property.

Through Ministerial Decree No. 959 of 2012 Issuing the Executive Regulations for Decree-Law No. 14 of 2012 on the Integrated Development of the Sinai Peninsula, disposal of the land or property should be to an Egyptian citizen whose parents are both Egyptian and who does not possess another nationality; non-Egyptians or dual nationals could retain the land owned prior to the passing of Decree-Law 14/2012 under the condition that they had 'built on or reclaimed or planted such land', but such acquisitions were only effective 'after obtaining written approval of the Ministries of Defence and Interior and the Egyptian Central Intelligence'. However, the procedures and criteria for attaining approval from these ministries were not specified.<sup>38</sup>

Decree-Law 14/2012 was amended in 2015 and 2017 through Decree-Law No. 95 of 2015 amending some provisions of Decree-Law No. 14 of 2012 on the Integrated Development of the Sinai Peninsula and Decree-Law No. 2015 of 2017 respectively, the latter of which did not affect citizenship rights. Decree-Law 95/2015 allowed non-Egyptians and dual citizens with title to land in the Sinai Peninsula—not only in development areas—through inheritance, will, or gift to retain some rights such as the right of usufruct over the land, as well as title to immovable properties established on the land. However, they were also required to dispose of the title of the land itself to an individual possessing Egyptian nationality and no other nationality within six months of having acquired ownership of the land.

#### (b) Voting rights

During the so-called Arab Spring in Egypt, Egyptians living abroad became increasingly engaged in the political process. Some returned to Egypt to participate in the 2011 protests, others used social media to join the movement online from their countries of residence, and still others organised and attended protests before Egyptian embassies and consulates, particularly in capital cities of countries with significant Egyptian populations such as Australia, Canada, France, the United Kingdom, and the United States. Following the ouster of Hosni Mubarak, it became apparent that a presidential election that was potentially more democratic than previous elections under the dictatorship was going to take place. Egyptians abroad who were invested in the outcome began protesting and demanding their right to vote in light of this increased political engagement. In November 2011, Decree No. 130/2011 was enacted, providing all Egyptians over the age of 18 with the right to vote in elections and referendums regardless of their country of residency for the first time. The Constitution of 2012 also recognised Egyptians' right to vote in Article 55 and Article 56 addressed the rights of Egyptians living abroad, including the duty of the state to safeguard their interests, protect them and their rights and freedoms, assist them in performing their public duties toward the Egyptian state and society, and encourage their contribution to the development of the nation.<sup>39</sup>

<sup>38</sup> See Andrew Tobin, 'Egypt – new law threatens hotels and other international investment in Sinai', Clyde & Co LLP, March 2013 for a statement on the impact of Decree-Law 14/2012 and Ministerial Decree 959/2012 on the Integrated Development of the Sinai Peninsula,.

<sup>39</sup> Egyptian Constitution of 2012 [hereinafter *2012 Constitution*], Art 55 and 56.



## (c) Eligibility of politicians running for candidacy

Egyptians holding another citizenship were previously not allowed to run for parliamentary positions. Egyptian courts used Article 90 of the 1971 Constitution to make these exclusions, even though the article did not explicitly ban dual citizens from running for office. It required members of the People's Assembly to take the following oath prior to assuming duties: 'I swear by God Almighty that I shall preserve the safety of the nation and the Republican system, shall attend to the interests of the people, and shall respect the Constitution and law'.<sup>40</sup> As will be discussed below in sub-section 4.2.2, courts along with other opponents of dual citizens running for parliament questioned the ability of dual citizens to follow the terms of this oath due to having divided loyalties.

On 5 June 2014, with Egypt under a new constitution, Egypt's interim President Adly Mansour, who temporarily replaced Mohamed Morsi after his ouster, ratified the House of Representatives Law and Political Rights Law. It defined the makeup of the Parliament and, among the criteria defining the eligibility of parliamentary candidates, Article 8 required that parliamentary candidates hold only Egyptian nationality.<sup>41</sup> In March 2015, the SCC challenged the constitutionality of this law, citing Article 102 of the 2014 Constitution which only states that a member of the House of Representatives be an Egyptian citizen, without making mention of dual nationality.<sup>42</sup> The State Litigation Authority had made the argument that dual citizens have divided loyalties; the SCC responded with its reasoning that 'loyalty is a matter of emotion, and may not be permissibly assumed in the absence of evidentiary proof'.<sup>43</sup> The SCC cited Article 6 of the Constitution which guarantees the right to Egyptian nationality to anyone born of an Egyptian mother or an Egyptian father, as well as Article 87 of the 2014 Constitution, which guarantees citizen participation in public life, including the right to run in elections, and once again makes no mention of dual nationality.<sup>44</sup> The Court emphasised that dual nationality is legally permissible and that it should not preclude individuals from exercising constitutional rights.

Egyptians holding other citizenships have also faced restrictions when running for the presidency. Presidential candidates have been required to be Egyptian, be born to Egyptian parents, could not be dual citizens and, until the 2012 Constitution, both parents of their spouses also had to be Egyptian. Article 134 of the 2012 Constitution removed the requirement for parents of a presidential candidate's spouse to be Egyptian, stating only that presidential candidates had to hold Egyptian citizenship and could not be married to a non-Egyptian. In January 2012, Egypt's interim military government, the Supreme Council of the Armed Forces (SCAF), issued Decree 12/2012 amending 15 articles in Law 174/2005 on presidential elections, including the criteria for presidential candidates. Article 2 was amended to provide that presidential candidates were required to be Egyptian citizens who were born to Egyptian parents who do not hold another citizenship and who were not married to a non-Egyptian spouse.

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<sup>40</sup> *1971 Constitution*, *supra* note 10 at Art 90.

<sup>41</sup> Atlantic Council, 'Q&A: What Do We Know About Egypt's Parliamentary Elections?' 5 March 2015, <https://www.atlanticcouncil.org/blogs/menasource/q-a-what-do-we-know-about-egypt-s-parliamentary-elections/>.

<sup>42</sup> *2014 Constitution*, *supra* note 16 at Art 102.

<sup>43</sup> Egypt Justice, SCC on Election Laws, 10 June 2015 <https://egyptjustice.com/analysis/2015/6/10/scc-jurisprudence-on-election-laws>.

<sup>44</sup> *2014 Constitution*, *supra* note 16 at Arts 6 and 87.

### 3.3.3 Refugees

Refugee status in Egypt does not include a track toward acquiring Egyptian citizenship. The Egyptian government views the residence of refugees as temporary and this is reflected institutionally. Egypt does not have its own asylum laws, although asylum is briefly mentioned in the Constitution: ‘The State shall grant political asylum to any foreigner who has been persecuted for defending the interests of peoples, human rights, peace or justice. Extradition of political refugees is forbidden. All of the above is according to the law’.<sup>45</sup> In practice, through the 1954 Memorandum of Understanding, the Egyptian government has delegated the United Nations High Commissioner for Refugees (UNHCR) to determine refugee status using international refugee law and the international definitions of ‘refugee’ found in the 1951 Convention Related to the Status of Refugees, as well as the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. Recognised refugees in Egypt receive a UNCHR-issued identity card and are obligated to obtain a legal residence permit in their UNHCR card rather than their passport.<sup>46</sup> Residence permits are limited and require renewal, emphasising the temporary nature of refugee status. Refugees are subject to Egyptian national laws and cannot achieve naturalisation through residence, but may do so through other avenues allowed by Egypt’s citizenship laws such as through marriage to an Egyptian citizen or investment in Egypt.

### 3.3.4 The Baha’i Egyptian minority and statelessness

Egypt’s Baha’i minority, arriving in the country during the 19<sup>th</sup> century, lost recognition as a group under the government of Gamal Abdel-Nasser during the 1960s. Lack of recognition has created difficulties in estimating their numbers in Egypt, which have been speculated to range anywhere between 1,500-2,000 to over 7,000.<sup>47</sup> Because religion is required to be displayed on identity documents, such as the national identification card and birth certificates, Baha’i Egyptians could not acquire identity documents that should be available to all Egyptian citizens. Historically, only three religions have been recognised and, by extension, displayed on these documents: Islam, Christianity, and Judaism. Because they do not fall within these categories, those belonging to Egypt’s Baha’i minority were unable to conduct basic transactions and access services due to lack of documents or had to resort to falsely identifying as Muslim or Christian. This violates their rights to privacy, freedom from discrimination, and freedom of religion, and also puts them at risk of prosecution for fraud. Identity documents are required for conducting administrative and financial transactions, as well as accessing essential services. Lack of possession of these documents inhibits education, employment, immunising children, opening a bank account, collecting pension, travelling, registering a birth, voting or obtaining a driver’s licence, marriage licence, death certificate, or passport. Young men who are obligated to serve in the mandatory military service could face suspension or expulsion from post-secondary education because of lacking military service postponement documents.

<sup>45</sup> 2014 Constitution, *supra* note 16 at Art 91.

<sup>46</sup> The process for refugees obtaining residency permits in Egypt involves approaching the Ministry of Foreign Affairs and the Communications office of the Residence Unit at the Passports and Immigration Administration, <https://help.unhcr.org/egypt/en/residence-permit-in-egypt/>.

<sup>47</sup> Minority Rights Group International, World Directory of Minorities and Indigenous Peoples, ‘Egypt: Baha’i of Egypt’, <https://minorityrights.org/minorities/bahai-of-egypt/#:~:text=As%20Egyptian%20citizens%20are%20required,exclude%20them%20from%20Egyptian%20society>.

These restrictions have prevented Baha'i Egyptians from accessing citizenship rights and they have been at risk of statelessness.<sup>48</sup>

In 2003, Al-Azhar issued a *fatwa* denouncing Egyptian Baha'is as apostates. In April 2006, a court case was brought to the Administrative Court on behalf of Baha'is, granting them the right to access legal documents. However, the verdict was appealed in May 2006, and in December 2006, the Supreme Administrative Court upheld the ruling that denied Egypt's Baha'i minority recognition of their religious affiliation in official documents. In 2008, the Egyptian Initiative for Personal Rights (EIPR) filed two lawsuits before the Cairo Court of Administrative Justice on behalf of Baha'i Egyptians. These two judgments resulted in the prohibition of the practice of preventing Baha'i Egyptians from obtaining identity documents.<sup>49</sup> This allowed for Baha'i Egyptians to omit religious affiliation from identity documents with a dash (—), a step toward accessing rights, but still not fully constituting official recognition. Despite this development, Baha'i Egyptians continue to experience problems, including with citizenship rights such as recognition of marriages and the sponsorship of a foreign spouse's permanent residence.<sup>50</sup> They also continue to face difficulties in acquiring identity cards and 'are frequently subjected to public vilification',<sup>51</sup> as well as other forms of persecution from non-state actors.

### 3.3.5 *Individuals born in the disputed Halayeb Triangle and statelessness*

In 1899, Britain set a political boundary between Egypt and Sudan at the 22<sup>nd</sup> parallel, and then in 1902, drew an administrative boundary that gave Sudan control of land north of the 22<sup>nd</sup> parallel. The discrepancy arising between these two boundaries led to approximately 7,950 square miles (20,590 square kilometres) of disputed territory known as the Halayeb Triangle. This dispute led to a disagreement over control between Egypt and Sudan after Sudan's independence in 1956, with both countries claiming sovereignty over the territory. Over the decades, hostilities have taken place between the two countries in that region, with both attempting to wrest control over the land and its mineral and gold resources. Those who were born within this region have been faced with the question of citizenship, identifying with Bishariyya or Ababda tribes, but unable to determine whether they would be considered Egyptian or Sudanese citizens. Although an official number is unknown due to lack of statistics from the governments or UNHCR, it is understood that many of those who were born in and reside along this border region are stateless and do not possess identifying documents recognised by either the Egyptian or Sudanese governments. Of these stateless individuals, it is also unknown how many may have attempted to obtain citizenship. Because these stateless individuals lack official documents, they face challenges accessing education, healthcare including vaccinations and regular check-ups, marriage, inheritance, death certificates, and burials. In a decision made in February 2021, the Egyptian Ministry of Interior granted Egyptian citizenship to three previously stateless individuals born in the South Sinai Peninsula, citing Article 4 of Law 26/1975.<sup>52</sup> While this is a move in the right direction toward addressing

<sup>48</sup> Katherine Southwick & M. Lynch, 'Nationality Rights for All: A Progress Report and Global Survey on Statelessness', Refugees International, March 2009.

<sup>49</sup> Human Rights Watch, 'Egypt: Court Prohibits Withholding Documents from Baha'is', 29 January 2008 <https://www.hrw.org/news/2008/01/29/egypt-court-prohibits-withholding-documents-bahais#>.

<sup>50</sup> US Department of State, Office of International Religious Freedom, 2019 Report on International Religious Freedom: Egypt; 8 <https://www.state.gov/wp-content/uploads/2020/06/EGYPT-2019-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>.

<sup>51</sup> *Supra* note 55.

<sup>52</sup> Al-Monitor, 'Egypt's stateless keep receiving empty promises of citizenship', 18 February 2021, <https://www.al-monitor.com/originals/2021/02/egypt-stateless-tribes-sinai-halayeb-shalateen-nationality.html>.

the situation of statelessness in this region, it is limited and has yet to be expanded to encompass all individuals in the Halayeb Triangle facing a similar situation.

### *3.3.6 Withdrawal of citizenship of those accused of threatening national security or terrorism, and as political punishment*

In September 2017, the Cabinet approved an amendment to Article 15 of Law 26/1975, granting the State the right to withdraw the citizenship of any individual who is considered a threat to public order or national security. The amendment would read, ‘Nationality can be withdrawn if [a person] joins any group, association, body, organisation, gang, or any entity of any nature with the aim of harming the public order of the state or undermining the social and economic order by force or by any unlawful means’.<sup>53</sup> In December 2017, the administrative courts approved the amendments and Parliament has been expected to vote on their approval. Although still pending at the time of writing, it is expected that Parliament will approve the amendment to the citizenship law because it is overwhelmingly comprised of pro-government members.<sup>54</sup>

Given the repressive actions of the Egyptian government against political dissent and its broadly sweeping definitions of ideas like threatening public order or national security, there have been fears that this amendment to the nationality law will be used as a tool of political punishment, resulting in large numbers of stateless Egyptians whose fates remain unclear. Those risking statelessness under these circumstances could include members of groups that El-Sisi’s government has banned, as well as activists, dissenters, protestors or any other individual or group that the government elects to target. Critics of the draft amendment have raised questions about whether and to where newly stateless Egyptians may be expelled and whether there exists a possibility that they would continue residing in Egypt without accessing basic rights.<sup>55</sup>

In March 2020, as Egypt awaited the outcome of Parliament’s decision regarding the amendment to the nationality law, Egyptian President Abdel-Fattah El-Sisi ratified Law No. 15 of 2020 amending Egypt’s anti-terrorism law No. 94/2015, broadening the already wide-ranging criteria under which an individual may be considered to be associated with terrorism.<sup>56</sup> The amendments to the anti-terrorism law expand the definition of financing terrorist acts to include providing a place of training for terrorists, providing terrorists with weapons or documents, or assisting terrorists with travel through funding or other support, without

<sup>53</sup> George Sadek, ‘Egypt: Draft Amendment to Citizenship Law’, Library of Congress Global Legal Monitor, 4 October 2017 [https://www.loc.gov/law/foreign-news/article/egypt-draft-amendment-to-citizenship-law/#:~:text=\(Oct.,26%20of%201975%20on%20Citizenship.&text=endangering%20state%20security,-\(Egypt%20Amends%20Law%20to%20Strip%20Citizenship%20from%20Those%20Convicted%20in,Public%20Order%2C%20supra.\)](https://www.loc.gov/law/foreign-news/article/egypt-draft-amendment-to-citizenship-law/#:~:text=(Oct.,26%20of%201975%20on%20Citizenship.&text=endangering%20state%20security,-(Egypt%20Amends%20Law%20to%20Strip%20Citizenship%20from%20Those%20Convicted%20in,Public%20Order%2C%20supra.)) citing Ahmed Imam, Undersecretary of Legal Affairs at the Ministry of Interior, ‘The New Amendment to the Law of Citizenship is a Challenge to the Muslim Brotherhood Organisation’, *Al-Ahram Newspaper*, 24 September 2017 (Arabic).

<sup>54</sup> In an assessment of the performance of Egypt’s Parliament in 2016, including the indicator of checks and balances, the Tahrir Institute for Middle East Policy (TIMEP) reported that the majority of bills passed by Parliament were ‘mostly or wholly government-drafted bills’, and that ‘While maintaining an aura of independence in the statements of some representatives, the parliament did not serve as an efficient check and balance on the executive and judicial branches, acting more as a rubber stamp’; TIMEP, *Egypt Parliament Watch: Session One Report*, January-September 2016, p. 5.

<sup>55</sup> Nael Shama, ‘Stripping Away Identity: The Dangers of a Repressive New Nationality Law in Egypt’, Project on Middle East Democracy (POMED), December 2017, p. 8.

<sup>56</sup> Ahram Online, ‘Egypt’s Sisi ratifies amendments to anti-terrorism law’, 9 March 2020 <http://english.ahram.org/NewsContent/1/64/364938/Egypt/Politics-/Egypts-Sisi-ratifies-amendments-to-antiterrorism-l.aspx>.

necessarily being directly connected to the terrorist act.<sup>57</sup> Although Egypt has been combating insurgency for several years, particularly in the Sinai Peninsula and mostly perpetrated by Islamic State,<sup>58</sup> it is improbable that these amendments will sufficiently resolve the situation; rather, they are more likely to perpetuate the government's tactics of repressing dissent. The UN Special Rapporteur on human rights and counterterrorism Fionnuala D. Ní Aoláin expressed concern that the amendments to the anti-terrorism law would 'profoundly impinge on a range of fundamental human rights', which could pave the way for an increase in arbitrary arrests and detentions, disappearances, torture, and violations of freedom of expression, thought, association, and peaceful assembly.<sup>59</sup> Those expected to be targeted by the amended law as 'terrorist entities' include individuals, businesses, media outlets, trade unions, journalists, human rights defenders, opposition parties, and public-sector workers.<sup>60</sup>

Egyptians who are currently living in exile are at risk of losing their citizenship and potentially becoming stateless. In December 2020, Prime Minister Mustafa Madbouly withdrew the Egyptian citizenship of opposition political activist Ghada Naguib, who is also the spouse of Hisham Abdallah, an artist and television host of Egyptian opposition channel Al-Sharq. Exercising a form of transnational repression, the Prime Minister's decision published in the Official Gazette<sup>61</sup> stated that Naguib's citizenship was withdrawn due to her being accused of the felony of harming Egypt's national security while residing with her spouse in Istanbul, Turkey since 2016. The decision also made the claim that she held Syrian citizenship, which she told Al-Monitor was untrue, that she only has Syrian heritage but not nationality, and that the withdrawal of her Egyptian nationality rendered her stateless.<sup>62</sup> Samir Sabry, a controversial lawyer known for his pro-government bias, has taken a lawsuit to the Administrative Judicial Court of the State Council attempting to withdraw citizenship from a number of Muslim Brotherhood members, former ministers, and journalists.<sup>63</sup> Constitutional experts such as Fathi Sorour, professor of criminal law at Cairo University and former speaker of the People's Assembly,<sup>64</sup> have deemed the amendments unconstitutional.<sup>65</sup> Opponents of the amendments believe they aim to stoke fear and according to lawyer and human rights

<sup>57</sup> Samy Magdy, 'Egypt moves toward toughening up draconian anti-terror law', *AP*, 10 February 2020, <https://apnews.com/article/9e7556125501da5bcaclde1fd844b8dd>.

<sup>58</sup> Allison McManus, 'The Egyptian Military's Terrorism Containment Campaign in North Sinai', Carnegie Endowment for International Peace, 30 June 2020, <https://carnegieendowment.org/sada/82218>.

<sup>59</sup> United Nations Human Rights Office of the High Commissioner, 'Egypt's Updated terrorism law opens the door to more rights abuses, says UN expert', 9 April 2020 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25787>.

<sup>60</sup> *Id.*

<sup>61</sup> Fatma Mohamed, 'Revocation of the Citizenship of Ghada Naguib, Wife of Hisham Abdallah (Text of the Decision)', إسقاط الجنسية عن عادة نجيب زوجة هشام عبد الله (نص القرار), *Al-Masry Al-Youm*, 24 December 2020, <https://www.almasryalyoum.com/news/details/2197197>.

<sup>62</sup> Al-Monitor, 'Egyptians in exile fear losing citizenship', 5 January 2021, <https://www.al-monitor.com/pulse/originals/2021/01/egypt-revoke-citizenship-opposition-muslim-brotherhood.html>.

<sup>63</sup> *Id.*

<sup>64</sup> The People's Assembly was formerly the lower House of Egypt's Parliament, which has since become unicameral.

<sup>65</sup> Mahmoud Ramzi, 'Fathi Sorour: Amendments to the Law to Revoke Nationality are "Unconstitutional"', فتحي سرور: تعديلات قانون إسقاط الجنسية "غير دستورية", *Masrawy*, 20 December 2017 [https://www.masrawy.com/news/news\\_egypt/details/2017/12/20/1224412/%D9%81%D8%AA%D8%AD%D9%8A-%D8%B3%D8%B1%D9%88%D8%B1-%D8%AA%D8%B9%D8%AF%D9%8A%D9%84%D8%A7%D8%AA-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A5%D8%B3%D9%82%D8%A7%D8%B7-%D8%A7%D9%84%D8%AC%D9%86%D8%B3%D9%8A%D8%A9-%D8%BA%D9%8A%D8%B1-%D8%AF%D8%B3%D8%AA%D9%88%D8%B1%D9%8A%D8%A9-](https://www.masrawy.com/news/news_egypt/details/2017/12/20/1224412/%D9%81%D8%AA%D8%AD%D9%8A-%D8%B3%D8%B1%D9%88%D8%B1-%D8%AA%D8%B9%D8%AF%D9%8A%D9%84%D8%A7%D8%AA-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A5%D8%B3%D9%82%D8%A7%D8%B7-%D8%A7%D9%84%D8%AC%D9%86%D8%B3%D9%8A%D8%A9-%D8%BA%D9%8A%D8%B1-%D8%AF%D8%B3%D8%AA%D9%88%D8%B1%D9%8A%D8%A9-)

activist Tariq El-Awadi, they are meant to increase repression of opposition groups.<sup>66</sup> Human Rights Watch has asserted that the Citizenship Law 26/1975 is ‘subject to abuse as it gives authorities great discretion, without legal oversight or court review, in stripping Egyptians of their nationality’, drawing particular criticism to the broad powers afforded to the authorities by Articles 15 and 16.<sup>67</sup>

### 3.3.7 Foreign investors

In August 2018, Egyptian President Abdel-Fattah El-Sisi ratified Law No. 173 of 2018 Amending Certain Provisions of Law No. 89 of 1960 Concerning the Entry, Residence, and Exit of Foreigners in the Territories of the Arab Republic of Egypt and Law No. 26 of 1975 Concerning Egyptian Nationality. Law 173/2018 is a residence program for foreigners that could, with the permission of the Minister of Interior, eventually lead to the opportunity for them to apply for Egyptian citizenship following a five-year residence period and a 7 million EGP (US\$391,000) investment. Article 1 amended Article 17 of Law 89/1960, dividing foreigners in Egypt into categories: foreigners with special, normal, temporary, and deposit residence status.<sup>68</sup> Article 2 of Law 173/2018 added Article 20 bis to Law 89/1960 which *inter alia* defines foreigners with deposit residence status as non-Egyptians who come to Egypt and deposit a minimum of 7 million EGP (\$US 391,000) in an Egyptian bank.<sup>69</sup> Law 173/2018 also added Article 4 duplicate to Law 26/1975 on Egyptian nationality, which provides that Egyptian citizenship may be acquired by foreigners who have lived in Egypt under a ‘deposit residency’ for at least five consecutive years prior to submitting an application for naturalisation. Those who meet the requirements of Law 26/1975 following these five consecutive years may submit an application for naturalisation.

In December 2019, Egypt passed Parliament Law No. 190 Amending Law No. 26 of 1975 Concerning Egyptian Nationality, providing foreign investors with more opportunities to acquire Egyptian citizenship. The conditions for eligibility are 1) making a non-refundable donation of US\$250,000 as foreign funds to the state treasury, 2) making a real-estate investment of a minimum of US\$500,000, 3) an investment project of a minimum of US\$400,000 where the foreign national’s share in the project is at least 40%, 4) making a bank deposit of US\$750,000 from abroad that is refundable in Egyptian pounds (EGP) within five years without interest in accordance with the rate of the Central Bank of Egypt (CBE), or 5) making a bank deposit of US\$1 million that is refundable in EGP within three years without interest deposited into a special account under the CBE treasury.<sup>70</sup>

<sup>66</sup> Khalid Hassan, ‘Egypt poised to approve changes to citizenship law’, Al-Monitor, 11 January 2018, <https://www.al-monitor.com/pulse/originals/2018/01/egypt-amend-citizenship-law-opposition.html>.

<sup>67</sup> Human Rights Watch, ‘Egypt: Activist Stripped of Citizenship’, 11 February 2021, <https://www.hrw.org/news/2021/02/11/egypt-activist-stripped-citizenship#>

<sup>68</sup> Law No. 173 of 2018 Amending Certain Provisions of Law No. 89 of 1960 Concerning the Entry, Residence, and Exit of Foreigners in the Territories of the Arab Republic of Egypt and Law No. 26 of 1975 Concerning Egyptian Nationality, Art 1.

<sup>69</sup> *Id.* at Art 2.

<sup>70</sup> Library of Congress, Egypt: Parliament Approves Draft Law Allowing Foreign Investors to Acquire Egyptian Citizenship, 31 July 2019 <https://www.loc.gov/law/foreign-news/article/egypt-parliament-approves-draft-law-allowing-foreign-investors-to-acquire-egyptian-citizenship/>.

## 4. Current political debates and reform plans

As is often the case with the rule of law in Egypt, bills and framework laws have been adopted, but they sometimes have yet to see consistent or widespread implementation. Citizenship law can be viewed as an example of the government's intermittent apportioning of rights that often fall short of the needs of the population and the State's requirement to guarantee individual rights found in the Constitution and the international human rights instruments to which Egypt is party. These contentious areas and calls for reform include the use of 'Zionism' to withdraw Egyptian citizenship, social and political rights of emigrants and dual citizens, ableism in the citizenship law, and the failure of the national citizenship law to align with international human rights obligations and norms.

### 4.1 Zionism

In the 1975 citizenship law that is in current use today, 'Zionists' are prohibited from possessing Egyptian nationality. According to Minority Rights Group International, the 1956 nationality law prohibiting the conferral of nationality to 'Zionists' served to conflate Zionism and Judaism.<sup>71</sup> Following the enactment of the 1956 law, Jewish individuals of Egyptian and non-Egyptian origin who were previously residing in Egypt had difficulty remaining in Egypt or were expelled. There is a lack of a common understanding of the concept of 'Zionism' in Egyptian law, and it can be used to haphazardly prosecute on broad terms. The reference to Zionism in the citizenship law grants the authorities sweeping discretionary power to deprive Egyptians of citizenship for reasons such as traveling to Israel, marrying someone of Israeli nationality or Jewish origin, or even association with the United States, such as possessing dual Egyptian-American citizenship, which has been seen as an ally of Israel and also conflated with Zionism. Regardless of an individual's political belief, loose ties to Israel, whether real or imputed, political or apolitical, may be sufficient grounds for Egyptians to have their citizenships withdrawn. If the individual does not possess another nationality, then this withdrawal may potentially lead to statelessness.

A high-profile example is the case of the late former President Mohamed Morsi and his children. They ultimately were not stripped of their citizenship, and the lawyer Mohamed Salem who filed the suit attempting to have their citizenships withdrawn for national security reasons was viewed as having politically charged motivations. However, the reasoning that Salem quoted to the media was, 'It is shameful for Morsi, the president of the largest Arab country, that his children have American citizenship...The Muslim Brotherhood is publicly known to be against America, Zionism, and Israel. Is it possible for the President's children to be American citizens? America, the main supporter of Zionism!'<sup>72</sup> Since possessing dual citizenship is legal in Egypt, this was an attempt to frame the reason for withdrawal as being linked to Zionism.

Prominent sociology scholar, human rights activist, and founding director of the Ibn Khaldoun Centre for Development Studies, Saad Eddin Ibrahim has had his Egyptian

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<sup>71</sup> Minority Rights Group International, 'Justice Denied, Promises Broken: The Situation of Egypt's Minorities Since 2014', January 2019, p. 15.

<sup>72</sup> Shounaz Mekky, 'US citizenship for Morsi's children "threatens security", lawyer says', *Al Arabiya*, 31 May 2013, <https://english.alarabiya.net/en/News/middle-east/2013/05/31/Dual-citizenship-for-Mursi-s-children-threatens-Egypt-s-security-lawyer-says>.

citizenship revoked, reinstated, and threatened with withdrawal multiple times throughout his career.<sup>73</sup> A dual Egyptian-American citizen married to a US citizen, he has been targeted and jailed by the authorities several times for his political views. In January 2018, within the context of ‘Zionism’, member of Parliament Atef Abdel-Jawad attempted to have Ibrahim’s citizenship withdrawn because he visited Israel in order to lecture at Tel Aviv University, which Jawad characterised as ‘direct normalisation with the “Zionist entity” and a great betrayal’.<sup>74</sup> Ibrahim’s travel to Israel alone resulted in this conflation with Zionism and another threat to his Egyptian citizenship.

Naglaa Suleiman, known for winning the title of Arab Miss Israel in 2009, is the daughter of an Egyptian father and Arab-Israeli mother and possessed dual Egyptian-Israeli citizenship. In November 2015, Egyptian Prime Minister Sherif Ismail withdrew her Egyptian citizenship.<sup>75</sup> Despite her public statement that she refused to represent Israel in the Miss World Pageant because of her pride in her Egyptian roots,<sup>76</sup> the decision was made because she did not have permission from the Ministry of Interior to obtain dual citizenship.<sup>77</sup> Although this was not pronounced as an accusation of Zionism, because her second citizenship was from Israel, her Egyptian citizenship was revoked. This has been the practice with other cases of dual Egyptian-Israeli citizens, where their possession of a second nationality that is specifically Israeli, along with travel, residence, or work in Israel, has similarly led to the revocation of Egyptian citizenship.<sup>78</sup>

Another common practice that links Egyptians’ association with Israel, Israelis, or people of Jewish origin to Zionism is the marriage of Egyptian citizens to Israeli citizens. Numerous decisions have been made stripping Egyptians of their citizenship due to marriage to Israelis. In 2005, former Grand Mufti Nasr Farid Wasel issued a *fatwa* prohibiting Muslim Egyptians from marrying Israeli nationals, stating that it does not matter whether the Israeli spouse is ‘Arab, Muslim, or Christian’; he did not even mention the possibility of a Jewish Israeli spouse.<sup>79</sup> While religious edicts are not binding legal decisions, they hold social influence, and this particular *fatwa* is consistent with similar subsequent decisions made in Egyptian courts that were legally binding. In a similar spirit, the late Grand Sheikh of Al-Azhar, Mohamed Sayyed Tantawi has stated that ‘while marriage between an Egyptian man and an

<sup>73</sup> Saad Eddin Ibrahim discusses his loss of his Egyptian citizenship during the 1960s after he criticised Gamal Abdel-Nasser’s loss of the Six Day War with Israel in a conversation at Seminary Hall in John T. Ward, ‘Dissident in Exile’, *Drew University Magazine*, 14 April 2016, <https://www.drew.edu/news/2016/04/14/dissident-in-exile>. In 2008, Ibrahim lost his Egyptian citizenship for ‘tarnishing Egypt’s reputation’ and for ‘taking stances and acting in ways aimed at damaging the public interest’; Raymond Edward, ‘Lawsuit Accepted to Withdraw Egyptian Nationality from Saad Eddin Ibrahim’, *Al-Masry Al-Youm*, 4 August 2008, <https://today.almasryalyoum.com/article2.aspx?ArticleID=116006>.

<sup>74</sup> *Supra* note 66.

<sup>75</sup> Rami Galal, ‘How one Egyptian beauty queen lost her citizenship’, *Al-Monitor*, 30 November 2011, <https://www.al-monitor.com/pulse/originals/2015/11/arab-citizens-israel-dual-citizenship-egypt.html>.

<sup>76</sup> Ashram Abdel-Hamid, ‘Why did Egypt revoke the nationality of beauty queen Miss Arab?’ لماذا أسقطت مصر؟ (Arabic), *Al-Arabiya*, 12 November 2015, <https://www.alarabiya.net/ar/arab-and-world/egypt/2015/11/12/%D9%84%D9%85%D8%A7%D8%B0%D8%A7-%D8%A3%D8%B3%D9%82%D8%B7%D8%AA-%D9%85%D8%B5%D8%B1-%D8%AC%D9%86%D8%B3%D9%8A%D8%AA%D9%87%D8%A7-%D8%B9%D9%86-%D9%85%D9%84%D9%83%D8%A9-%D8%AC%D9%85%D8%A7%D9%84-%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D8%9F-.html>.

<sup>77</sup> *Supra* note 75.

<sup>78</sup> Haisam Hassanein, ‘A Beauty Queen Helps Israel’s Egyptian Community Find Its Voice’, *Tablet Mag*, 16 August 2017, <https://www.tabletmag.com/sections/news/articles/a-beauty-queen-helps-israels-egyptian-community-find-its-voice>.

<sup>79</sup> Maamoun Youssef, ‘Egypt: No citizenship in Israeli unions’, *AP*, 5 June 2010, <https://www.nbcnews.com/id/wbna37529923>.



Israeli woman is not religiously forbidden, the government has the right to strip the man of his citizenship for marrying a woman from “an enemy state”.<sup>80</sup>

In 2009, the Administrative Court ruled that the Cabinet and Ministry of Interior may strip Egyptians of nationality if they marry Israelis of non-Arab origin, finding that marriage to Israelis is a threat to Egypt’s national security in accordance with Article 16 of Law 26 of 1975.<sup>81</sup> In June 2010, the High Administrative Court upheld the ruling by the Administrative Court demanding that the Cabinet and Ministry of Interior revoke the nationality of Egyptians who marry Israel citizens of non-Arab origin, as well as the nationality of their children, again citing Article 16 of Law 26/1975. The lawyer representing the case, Nabil El-Wahsh, said that the lawsuit was to protect Egyptian youth and national security<sup>82</sup> and to prevent the creation of a generation ‘disloyal to the Arab world’.<sup>83</sup> The judge who issued the verdict, Mohamed El-Husseiny also referenced national security and stated in his ruling, ‘The case for [Egyptian] men married to Israeli Arab women is different than those married to Israeli women of Jewish origin because [Israeli Arabs] have lived under Israeli occupation’.<sup>84</sup> Columnist Sahar El-Gaara expressed her support of the ruling, calling it a ‘slap to normalisers’, and stating that Egyptians who have their passports stamped with an Israeli visa are potential spies.<sup>85</sup> According to human rights lawyer and activist Negad El-Borai, this decision was sending mixed messages about Israel and that ‘Egyptian law says citizenship can only be revoked if the citizen is proven to be spying on his country, and this verdict considers marrying an Israeli an act of spying’.<sup>86</sup> Gamal Eid, Director of the Arabic Network for Human Rights Information stated that the ruling was ‘political, not legal’, and that although he considers himself ‘against peace with Israel and normalisation with Zionists’, he is also against ‘annulling citizenship as punishment for marriage choice, and it has no legal justification’.<sup>87</sup> Shokri El-Shazli, head of Egyptian expatriates in Israel, expressed outrage in response to the ruling, stating that ‘The Egyptian citizenship is not a grant from the regime, but it’s our legal and constitutional right’.<sup>88</sup> The Egyptian government appealed the ruling, but the High Administrative Court rejected the appeal.

In September 2016, the Cairo Administrative Court ruled in favour of Shaimaa Amin’s request that the Cabinet and Ministry of Interior strip her brother of his nationality due to his marriage to an Israeli woman. The Court reasoned that revoking his citizenship constituted a protection of Egypt’s national security and that the defendant, who was living with his spouse and their son in the United Kingdom, ‘should have worked hard to make his wife and son give

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<sup>80</sup> *Id.*

<sup>81</sup> Ahram Online, ‘Egyptian court rules Egyptians married to Israelis must be stripped of citizenship’, 8 September 2016, <http://english.ahram.org.eg/NewsContent/1/64/243658/Egypt/Politics-/Egyptian-court-rules-Egyptians-married-to-Israelis.aspx#:~:text=The%20administrative%20court%20ruled%20that,threat%20to%20Egyptian%20national%20security&text=An%20Egyptian%20administrative%20court%20ruled,protect%20the%20country's%20national%20security>.

<sup>82</sup> BBC News, ‘Cairo court rules on Egyptians married to Israeli women’, 5 June 2010, <https://www.bbc.com/news/10247437>.

<sup>83</sup> France 24, ‘Court upholds ruling to strip men married to Israelis of Egyptian citizenship’, 5 June 2010, <https://www.france24.com/en/20100605-egyptian-men-strip-citizenship-israeli-women-married-children>.

<sup>84</sup> The National News, ‘Egypt court rules marrying an Israeli woman “the act of a spy”’, 7 June 2010, <https://www.thenationalnews.com/world/mena/egypt-court-rules-marrying-an-israeli-woman-the-act-of-a-spy-1.512490>.

<sup>85</sup> *Id.*

<sup>86</sup> *Supra* note 82.

<sup>87</sup> *Supra* note 82.

<sup>88</sup> *Supra* note 82.

up their Israeli nationality and come to live in Egypt'.<sup>89</sup> The Administrative Court also stated that despite the constitutional right to personal freedom,<sup>90</sup> this right is limited by a joint responsibility to protect the society and the State.<sup>91</sup>

## 4.2 Social and political rights of emigrants and dual citizens

### 4.2.1 Ownership of land in the Sinai Peninsula

The initial restrictions on ownership of land in the Sinai Peninsula in Law 14/2012 that promoted differential treatment of single-nationality Egyptians and dual nationals were met with resistance and rejection by a number of groups. Unclear wording in the law resulted in confusion about whether the law applied retroactively until state officials such as South Sinai Governor Khaled Fouda and General Rashwan, head of the Sinai Development Authority, stated that it did not apply retroactively. A group of dual citizens living in Sinai formed the 'Ana Masry Gedan' ('I Am Very Egyptian') Coalition in order to gain clarity on the effects of the law, as well as protest against it. Others decried the law as discriminatory, including investors and workers' rights groups in South Sinai who collaborated on a legal memo written by lawyer Mamdouh Mostafa to the head of the Tourism Development Authority, General Tareq Saad Eddin. This memo articulated the view that distinguishing between Egyptians who hold single or dual nationality violates the principle of equality in both the Constitution and the 26/1975 Egyptian nationality law.<sup>92</sup>

The subsequent amendments to Law 14/2012, the most recent being Law 215/2017, retain this differentiation of treatment of single and dual citizen Egyptians. Opponents of this differentiation referenced Article 53 of the 2014 Constitution, which states that

'Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason. Discrimination and incitement to hate are crimes punishable by law. The state shall take all necessary measures to eliminate all forms of discrimination, and the law shall regulate the establishment of an independent commission for this purpose'.<sup>93</sup>

Furthermore, Article 92 of the 2014 Constitution indicates that 'No law that regulates the exercise of rights and freedoms may restrict them in such a way as infringes upon their essence and foundation'.<sup>94</sup> Thus, a law differentiating the rights of single and dual citizen Egyptians can be argued to be discriminatory under Article 53, and such a discriminatory law may also be deemed unconstitutional according to Article 92. According to Tarek Badawy, lawyer and Senior Counsel at Sarwat A. Shahid Law Firm, it is debatable whether the government could justify its upholding of a discriminatory law if challenged in court due to the Constitutional

<sup>89</sup> *Supra* note 81.

<sup>90</sup> Article 62 of the 2014 Constitution of Egypt states, 'Freedom of movement, residence, and emigration is guaranteed. No citizen may be expelled from state territory or banned from returning thereto. No citizen may be banned from leaving state territory, placed under house arrest, or banned from residing in a certain area except by a causal judicial order for a specified period of time, and in cases by specified by law'. By understanding marriage to an Israeli citizen as a threat to national security, adjudicators circumvent the rights that this law should guarantee.

<sup>91</sup> *Supra* note 81.

<sup>92</sup> Sarah Carr, 'New ownership regulations in Sinai are worrying for many', Egypt Independent, 14 January 2013 <https://egyptindependent.com/new-ownership-regulations-sinai-are-worrying-many/>.

<sup>93</sup> 2014 Constitution, *supra* note 16 at Art 53.

<sup>94</sup> 2014 Constitution, *supra* note 16 at Art 92.

Court's prior history of finding discriminatory laws to be unconstitutional and because of this specific indication in Article 92 of the Constitution. He speculates that the restrictions of land ownership in the Sinai Peninsula based on citizenship status may 'encourage Egyptians who apply for a foreign citizenship not to notify the government of their naturalisation as indicated in Article 10 of the *Citizenship Act* in order to be deemed Egyptian citizens only and reap the benefits of Egyptian citizenship only (although they will remain at a remote risk of losing citizenship)'.<sup>95</sup> In addition to this, depending on the extent of their investment in land in the Sinai Peninsula, these restrictions may also pressure Egyptians holding dual citizenship to feel compelled to relinquish their second nationality.

#### 4.2.2 *Dual citizens running for parliamentary and presidential elections*

As discussed above, those who believe more rights should be conferred to those holding only Egyptian citizenship than dual citizens have commonly accused the latter of having divided loyalties, casting aspersions with regard to their patriotism. In light of the October 2000 parliamentary elections, the Supreme Administrative Court banned three individuals holding dual citizenship from running for parliament: French-Egyptian citizen Rami Lakah, Egyptian-German citizen Mohamed Ahmed Mohamed Saleh, and Egyptian-American citizen Talaat Mutawi.<sup>96</sup> Around that time, another candidate contested the credentials of his Egyptian-Dutch opponent and requested his exclusion from running for election, citing Article 90 of the 1971 Constitution. The Court indicated its interpretation that 'it cannot be imagined that the person who is required to look after the country's interest may share his loyalty to Egypt with another country'.<sup>97</sup> In August 2001, Egypt's Higher Administrative Court considered removing MPs holding dual citizenship from their posts, including the abovementioned Mohamed Ahmed Mohamed Saleh and French-Egyptian citizen and businessman Rami Lakah.<sup>98</sup> In September 2001 the Higher Administrative Court decided to universally ban dual citizens from parliamentary candidacy.<sup>99</sup> Lakah was unable to retain his parliamentary seat and in 2001 he fled to Europe as he was facing compounding debt.<sup>100</sup> In March 2010, Lakah returned to Egypt claiming to have renounced his French citizenship, and in November 2010 the High Administrative Court ruled in his favour allowing him to run for parliament.<sup>101</sup> In December 2011, Lakah was again excluded from running for parliamentary election because of his dual nationality.<sup>102</sup> In the context of family members of presidential candidates holding foreign citizenships, in April 2012, Salafist presidential candidate Hazem Salah Abu Ismail filed a lawsuit demanding that the Ministry of Interior prove that his mother possessed U.S. citizenship in order to avoid disqualification from the candidacy. While a report delivered to Egypt's

<sup>95</sup> Tarek Badawy, 'Egyptian Citizenship Legislation, Private International Law, and Their Impact on Individual Rights', Brill: Middle East Law and Governance 6 (2014) pp 272-295, p. 287.

<sup>96</sup> Albawaba, 'Court Prohibits Dual Citizenship for Egyptian MPs', 14 January 2001, <https://www.albawaba.com/news/court-prohibits-dual-citizenship-egyptian-mps>.

<sup>97</sup> *Id.*

<sup>98</sup> Albawaba, 'Egyptian Court to Rule on Kicking Dual-Nationality MPs Out of Parliament', 22 August 2001, <https://www.albawaba.com/news/egyptian-court-rule-kicking-dual-nationality-mps-out-parliament>.

<sup>99</sup> Albawaba, 'Egyptian Parliament Speaker: No Dual-Nationality Candidates Allowed', 6 September 2001, <https://www.albawaba.com/news/egyptian-parliament-speaker-no-dual-nationality-candidates-allowed>.

<sup>100</sup> Reuters, 'Fugitive businessman Lakah returns to Cairo – report', 12 March 2010, <https://www.reuters.com/article/lakah-egypt/fugitive-businessman-lakah-returns-to-cairo-report-idINLDE62B0I620100312>.

<sup>101</sup> Yasmine Fathy, 'Rami Lakah wins court case', *Ahram Online*, 26 November 2010, <https://english.ahram.org.eg/NewsContent/1/64/629/Egypt/Politics-/Rami-Lakah-wins-court-case.aspx>.

<sup>102</sup> Egypt Independent, 'Court bans candidate with dual nationality from elections', 11 December 2011, <https://egyptindependent.com/court-bans-candidate-dual-nationality-elections/>.

Presidential Elections Commission (PEC) indicated that his mother arrived in the United States on an American passport, he claimed that she only held a green card granting her legal permanent residence rather than citizenship. The court ultimately ruled in his favour and did not disqualify him from presidential candidacy.<sup>103</sup>

Accusations questioning the loyalty of dual citizens have occasionally been made with political motivations, such as in 2013 when lawyer Mohamed Salem filed a lawsuit attempting to strip former late President Mohamed Morsi and his children Ahmed and Shaimaa of their Egyptian citizenships. As discussed in section 4.1, Salem claimed that it was illegal for Morsi's children to hold US citizenship alongside their Egyptian citizenships and accused them of aligning themselves with Zionism because of America's political support of Israel. Mohamed El-Damaty, the lawyer representing Ahmed and Shaimaa, dismissed the lawsuit as a media stunt and an attempt to prevent Morsi from running for the presidency.<sup>104</sup> In June 2016, the Administrative Court rejected the attempt to withdraw Morsi's citizenship due to a lack of evidence that he committed acts that threatened national security.<sup>105</sup>

As mentioned above, in 2015, the SCC ruled that this differentiation between single and dual citizens was unconstitutional with regard to Egyptian dual citizens running for parliament. Activist and leader of Al-Hayat Party Michael Mounir was involved in filing the lawsuit challenging the constitutionality of this differentiation, and eventually lawyer and constitutional affairs expert Essam El-Eslamboly was delegated to take part in the lawsuit. El-Eslamboly deemed this differentiation of Egyptians holding single and dual citizenship to be unconstitutional and expressed that Egyptians living abroad should be guaranteed the equal rights articulated in the Constitution.<sup>106</sup> Constitutional expert Shawky El-Sayed has also stated that this differentiation when it comes to the right to run for parliamentary election is unconstitutional.<sup>107</sup> Deputy Prime Minister for Parliamentary Affairs Refaat El-Komsan clarified that the ruling does not necessarily apply to all Egyptians living abroad, but rather specifically those who hold multiple citizenships, which may also include dual citizen Egyptians living in Egypt.<sup>108</sup> A number of seats in Parliament were allocated to Egyptians living abroad, and a set of requirements must be met to represent Egyptians abroad including having resided in the country of their other citizenship for a minimum of ten years. A local resident holding multiple citizenships would not run for one of those seats, but rather as a regular parliamentary candidate.<sup>109</sup> Shehab Wagih, a spokesperson for the Free Egyptians Party, which is headed by Naguib Sawiris who holds dual citizenship, also denounced the objections to the loyalty of Egyptians who hold dual citizenship.<sup>110</sup> Although dual citizens face restrictions when running for political office, there has been a tendency for decisions to point to the constitutionality of their political participation. As Egypt's laws change and its political

<sup>103</sup> Yasmine Saleh, 'Egypt's Salafi presidential candidate claims moral victory', *Reuters*, 11 April 2012, <https://www.reuters.com/article/us-egypt-presidency-salafi/egypts-salafi-presidential-candidate-claims-moral-victory-idUSBRE83A1HA20120411>.

<sup>104</sup> *Supra* note 72.

<sup>105</sup> Mohamed Napoleon, 'The Administrative Judiciary refuses to revoke the nationality of Morsi', القضاء الإداري, يرفض إسقاط الجنسية عن <<مورسي>> (Arabic), *Shorouk News*, 5 June 2016, <https://www.shorouknews.com/news/view.aspx?cdate=05062016&id=f45a7f67-6957-4dd6-b3d3-bbc7d884738c>.

<sup>106</sup> Amira El-Fekki, 'Dual-citizenship holders to run in parliament for first time in years', 7 March 2015, <https://dailynewsegypt.com/2015/03/07/court-rules-dual-citizenship-holders-ban-from-parliament-unconstitutional/>.

<sup>107</sup> *Id.*

<sup>108</sup> *Supra* note 106.

<sup>109</sup> *Supra* note 106.

<sup>110</sup> *Supra* note 106.

climate shifts under varying leaderships, it can be expected that the criteria may continue being subject to change or challenge, particularly if calls for change are politically motivated.

#### 4.2.3 *Citizenship for foreign investors*

The 2019 amendment to Law 26/1975 that allows foreign nationals to acquire Egyptian citizenship through investment projects has had mixed reactions of both support and opposition from various groups. The Egyptian Businessman's Association (EBA) viewed the amendment as an opportunity to grow the real estate sector and attract more foreign investment in Egypt. The Vice Chairman of the EBA, Fathallah Fawzi, who is also the Chairman of the Association's Construction and Building Committee, specified that this would attract investment from Saudi Arabia, expressing wishes to increase mutually beneficial cooperation and integration in business between the two countries.<sup>111</sup>

Prior to the amendment becoming a law, the Associated Press reported on a number of lawmakers denouncing the draft bill; lawmaker Haitham El-Hariri accused the Egyptian government of 'selling citizenship' and pro-government lawmaker Mustafa Bakri rejected the bill saying that 'Egyptian citizenship is not for sale'.<sup>112</sup> Columnist Abdel-Azim Hamad opposed the bill, saying that the Egyptian government should shift its focus to 'retrieving the money that was stolen and smuggled' from the country by businessmen who fled Egypt during the 2011 uprising.<sup>113</sup> Parliament Speaker Ali Abdel-Aal defended the bill, stating that 'some foreign residents enjoy [government] subsidies and services [...] and in the end take the citizenship of another country, why not grant them Egyptian citizenship?'<sup>114</sup> The leader of the Support Egypt Coalition, lawmaker Mohamed El-Sewidy, also stated in support of the draft bill that it is 'part of improving [Egypt's] investment climate'.<sup>115</sup>

After the draft bill became a law, Talaat Khalil, a member of the parliamentary Planning and Budget Committee, expressed doubt that the amendment to the law would attract foreign investors. This was because under Egypt's Investment Law No. 72 of 2017 foreign investors already have the guarantee of protections such as, *inter alia*, equal treatment to Egyptian nationals under the law, protection against nationalisation, and guaranteed residence for the duration of their projects.<sup>116</sup> In his view, the advantages of acquiring Egyptian citizenship would not necessarily serve as an incentive beyond these existing rights.<sup>117</sup> Khalil also stated that he asked the government for the number of foreign investors whose businesses had faltered and who were interested in pursuing Egyptian citizenship in order to overcome these pitfalls, and he did not receive a response.<sup>118</sup>

Opponents of the amendment to the law have speculated that it is meant to pressure non-Egyptians including refugees residing in the country, especially Syrians, to invest in Egypt in exchange for Egyptian citizenship, which would improve their livelihoods in Egypt. Osama

<sup>111</sup> Al Bawabah News, '٢٧ مليار دولار استثمارات ٥ آلاف شركة سعودية في مصر' 'US\$27 billion investments of 5,000 Saudi companies in Egypt' (Arabic), 17 June 2019 <https://www.albawabhnews.com/3631592>.

<sup>112</sup> Samy Magdy, 'Egypt lawmakers decry bill 'selling' foreigners citizenship, AP, 16 July 2018 <https://apnews.com/article/f666de99403849ef907b534cd6bf5d80>.

<sup>113</sup> *Id.*

<sup>114</sup> *Supra* note 112.

<sup>115</sup> *Supra* note 112.

<sup>116</sup> Law No. 72 of 2017 Promulgating the Investment Law, 31 May 2017

<https://investmentpolicy.unctad.org/investment-laws/laws/167/egypt-investment-law->

<sup>117</sup> Sally Nabil, 'جدل في مصر بشأن شروط منح الجنسية الأجنبي' 'Controversy in Egypt regarding the conditions for granting citizenship to foreigners' (Arabic), BBC Arabic, 11 June 2019 <https://www.bbc.com/arabic/middleeast-48600372>.

<sup>118</sup> *Id.*

Rushdy, a lawyer who represents foreign investors and has supported the amendments, has said that they make investment easier for refugees who are otherwise unable to invest in Egypt because of their lack of permanent residency, and that foreign investors acquiring Egyptian nationality will make incorporation of companies and facilitating investment and business procedures easier.<sup>119</sup> While it is unclear whether this law is beneficial to investors or the Egyptian economy, or whether it was indeed passed with an ulterior motive as some opponents might believe, it is relatively early to generalise about its ultimate outcome.

### 4.3 Ableism in Citizenship Law No. 26/1975

Article 4(4)(i) of Law No. 26 of 1975 provides that a foreign-born individual may acquire Egyptian citizenship by naturalisation through a decree by the Minister of Interior under a number of conditions including ‘That he should be mentally sane and suffering from no disability rendering him a burden on society’.<sup>120</sup> While clearly discriminatory toward people with disabilities, it is less clear who this would be meant to exclude or what circumstances might render an individual a ‘burden on society’. Furthermore, it appears to allude to an unstated hierarchy of physical disabilities or mental conditions, while also failing to address sensory or hidden conditions. Although there have not been significant attempts to reform this discriminatory exception, Egypt has other legislation protecting the rights of disabled individuals dating back to the 1950s.<sup>121</sup> Article 81 of the 2014 Constitution states,

The State shall guarantee the health, economic, social, cultural, entertainment, sporting, and education rights of people with disabilities and dwarfs.<sup>122</sup> The state shall provide work opportunities for such individuals, and allocate a percentage of these opportunities to them, in addition to equipping public utilities and their surrounding environment. The State guarantees their right to exercise political rights, and their integration with other citizens in order to achieve the principles of equality, justice, and equal opportunities.<sup>123</sup>

In April 2008, Egypt ratified the United Nations Convention on the Rights of Persons with Disabilities, Article 5 of which guarantees equality and non-discrimination. In 2018, President Abdel-Fattah El-Sisi ratified Law No. 10 of 2018 Promulgating the Law on the Rights of

<sup>119</sup> David Awad, ‘Egypt considers pros, cons of foreign citizenship changes’, Al-Monitor, 26 June 2019, <https://www.al-monitor.com/pulse/originals/2019/06/egypt-nationality-law-foreigners-buy-land-syrian-palestinian.html>.

<sup>120</sup> 1975 Citizenship Law, *supra* note 18 at Art 4(4)(i).

<sup>121</sup> See Heba Hagrass, ‘Definitions of Disability and Disability Policy in Egypt’ in C. Barnes and G. Mercer, *The Social Model of Disability: Europe and the Majority World*, The Disability Press, Chapter 10, 151-153 and 155-159 for a detailed view of definitions of disability in Egypt, as well as the development of legislation and policies protecting the rights of persons with disabilities in Egypt.

<sup>122</sup> In the Arabic text of the 2014 Constitution, the law protects الأشخاص ذوي الإعاقة والأقزام which has an exact translation of ‘persons with disabilities and dwarfs’. In Egyptian speech, depending on the context the word for ‘dwarf’ أقزام may be considered offensive or outdated and there may be a preference for قصار القامة which translates to ‘[persons of] short stature’. In English the term ‘dwarfs’ is sometimes accepted and there is a preference for the term ‘little people’. Dwarfism, the genetic or medical condition of short stature defined as an adult of 147 centimetres or less, is preferred terminology for the condition and the wording ‘persons with dwarfism’ moves away from labelling the group by its condition and toward defining the group as people who have the condition. These terms change with time and across communities and cultures, and it is important for legislators to remain cognizant of these changes when defining groups that the law is meant to protect.

<sup>123</sup> 2014 Constitution, *supra* note 16 at Art 81.

Persons with Disabilities.<sup>124</sup> It contains a number of rights, protections, guarantees, and commitments by the government, including the right to non-discrimination in health, employment, legal protection, political activity, rehabilitation, and training. Despite these efforts making strides in favour of protecting the rights of individuals with disabilities in Egypt, there have yet to be any significant movements toward amending Art 4 of Law 26/1975 with an eye toward removing its discriminatory language toward non-Egyptians with disabilities who may seek to acquire Egyptian citizenship.

#### 4.4 Alignment of national laws with international agreements

In addition to its national laws, Egypt has obligations under international instruments including the Universal Declaration of Human Rights, Article 15 of which prevents the arbitrary deprivation of nationality. Egypt is also bound by the International Covenant on Civil and Political Rights (ICCPR), which it ratified on 18 September 1981, Article 24 of which guarantees the right to nationality. Although Egypt is not party to the 1961 Convention on the Reduction of Statelessness, the obligation to prevent statelessness that is enshrined in the document is considered a norm of customary international law. This includes Article 9 prohibiting the arbitrary deprivation of nationality on racial, ethnic, or religious grounds, as well as Articles 7 and 8 prohibiting any loss of nationality that results in statelessness. In the context of the practice of stripping political activists of their citizenships and using transnational repression to render individuals whom the state considers ideological opponents stateless, human rights groups like Human Rights Watch and Amnesty International do not consider Egypt's current citizenship regime, and particularly the Citizenship Law 26/1975 and its implementation, to be in compliance with Egypt's international obligations. Human Rights Watch has called on the Egyptian Parliament to 'amend abusive citizenship laws so that they comply with Egypt's human rights obligations'.<sup>125</sup> In the same vein, Amnesty International has criticised Law 26/1975 for granting the executive wide discretionary powers to strip Egyptians of citizenship on 'overly broad and vaguely-defined grounds, beyond those permissible under international law'.<sup>126</sup> Amnesty International recommends that Egypt amend Law 26/1975 in alignment with international human rights standards by 'introducing guarantees against arbitrary deprivation of nationality and statelessness; explicitly prohibiting the deprivation of nationality on ethnic, religious, political, or racial grounds; and ensuring that affected individuals have the right to a fair hearing in front of a court or other independent body and the right to appeal'.<sup>127</sup>

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<sup>124</sup> Law No. 10 of 2018 Promulgating the Law on the Rights of Persons with Disabilities, adopted on 19 February 2018 (Arabic) <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/108411/133986/F-1610935116/10-2018.pdf>.

<sup>125</sup> Human Rights Watch, 'Egypt: Activist Stripped of Citizenship', 11 February 2021, <https://www.hrw.org/news/2021/02/11/egypt-activist-stripped-citizenship#>.

<sup>126</sup> Amnesty International, 'Egypt: Activist Arbitrarily Deprived of Nationality, Made Stateless', 5 March 2021, <https://www.amnesty.org/download/Documents/MDE1237702021ENGLISH.pdf>.

<sup>127</sup> *Id.*

## 5. Conclusions

Since the earliest years of Egyptian nationality law simply differentiating Egyptians from Ottomans, Egypt has over time gained a significant catalogue of legislation concerning the issue of citizenship. The evolution of Egyptian nationality law has seen gradually increased liberalisation for women's rights in relation to the right to confer nationality to their children. The rights of dual-citizen Egyptians and Egyptians residing abroad expanded access to political participation in voting, elections, and candidacy. Emigrants regained their right to citizenship, and although the government's increased openness to emigration has been motivated by attempting to address overpopulation, unemployment, and poverty, the attitude – and by extension legislation – has shifted away from the former practice of punishing those who reside abroad by withdrawing their citizenship.

Despite these significant yet unsystematic advances, a wider system of repression that governs all aspects of Egyptian life and rule of law has had inevitable effects on citizenship rights and policy, revealing an urgent need for reforms. For example, Egypt's Baha'i minority continues to face challenges despite the incremental change to their right in acquiring national ID cards, which remains insufficient for addressing their access to citizenship rights and risk of statelessness. Representatives of the Baha'i community in Egypt have lobbied for recognition, including during the drafting of the 2014 Constitution, and have so far not gained it.<sup>128</sup> The implementation of their existing right to obtain national ID cards without stating their religion has been inconsistent, and they continue to face other challenges in accessing rights to which they are entitled as Egyptian citizens. As long as the Baha'i faith is not formally recognised by the state as a religion, Baha'i Egyptians have less protection than citizens who fall under one of Egypt's three recognised religions. Efforts have also been made to remove religion from identity documents altogether, which may help bolster privacy rights, but have been viewed with scepticism as 'cosmetic' and falling short of addressing religious discrimination.<sup>129</sup>

With that said, Jewish citizens who do belong to one of the three recognised religions in Egypt also continue to face difficulty in accessing rights, including citizenship rights. Anti-Semitism, fuelled by hate speech and other existential threats, is conflated with anti-Zionism, and is used to demonise Jewish Egyptians along with non-Jewish Egyptians who may be falsely accused of Zionism for having apolitical or even non-existent ties to Israel, or for marrying Israeli citizens, resulting in the deprivation of nationality and, consequently, potential statelessness.

The fourth section of Article 4(4)(i) of Egypt's citizenship Law No. 26 of 1975 preventing non-Egyptians with disabilities 'rendering [them] a burden on society' from naturalisation must be repealed. Despite the lack of previous legal challenges to this exclusion and the dearth of information on the extent to which this law has been used to exclude non-Egyptians with disabilities from acquiring Egyptian citizenship, Egypt should align itself with its constitutional and international human rights duties to protect persons with disabilities from

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<sup>128</sup> *Supra* note 47.

<sup>129</sup> In 2018, legislator Ismail Nasreddin announced that he would submit a bill to remove religion from identity documents in Egypt. While favoured by some, particularly proponents of atheists' rights in Egypt's conservative culture, others have deemed it symbolic or ineffective. See Shahira Amin, 'Egypt looks to remove religion from ID cards – but is it too little, too late?' *Al-Monitor*, 19 November 2018, <https://www.al-monitor.com/pulse/originals/2018/11/egypt-remove-religion-national-id-cards-coptic-christians.html#:~:text=Legislator%20Ismail%20Nasreddin%20has%20announced,media%20quoted%20Nasreddin%20as%20saying>.



discrimination. This includes Egyptian national laws that are meant to protect the rights of persons with disabilities but contain outdated or discriminatory language, which should also be amended.

Finally, it is imperative that Egypt cease using withdrawal of citizenship as a tool of political punishment. This practice falls within the larger context of Egypt's political repression and crackdowns on freedom of thought, expression, and assembly, and its condemnation of opponents through association with 'terrorism' and national security threats. Despite Egypt's real need for reducing dangerous crimes motivated by politics and religion, particularly in the Sinai Peninsula, its broadly sweeping discretionary anti-terrorism law, which can be used to strip Egyptians of their citizenships and render them stateless, is more likely to target individuals for criticising the government or being associated with opposition groups. International experts, such as the UN Special Rapporteur on human rights and counterterrorism, recommend that the government review its anti-terrorism legislation to guarantee compliance with its obligations under the international human rights treaties to which it is party.<sup>130</sup> Beyond the designation as 'terrorist', general unfounded accusations of being a threat to national security while living in Egypt or the diaspora for holding political views that are unfavourable to the government are still used to withdraw Egyptian citizenship and increase statelessness. Halting these practices and amending the Citizenship Law as recommended by human rights groups will ensure greater alignment with Egypt's constitution and international human rights obligations.

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<sup>130</sup> *Supra* note 59.

