

Nationality Laws in Ethiopia and Eritrea: Overview of Evolution, Attainments and Gaps

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Abstract

This article briefly examines Ethiopia's nationality law since 1930 and highlights Eritrea's post-1992 nationality law. It also discusses the attainments and current challenges relating to nationality laws in Ethiopia's federal system and Eritrea's unitary structure. Historically, the two nations shared common nationality law, political and social landscapes up to the Eritrean secession in 1993. Even though Ethiopia's 1995 Constitution empowers the federal government to legislate a nationality law, bureaucratic impediments and the influence of ethnic federalism complicate equitable access to nationality rights. Regional governments play a significant role in defining these rights, resulting in ethnic disparities that entrench societal divisions. Moreover, the absence of a centralized residential identification system raises doubts about nationality status and limits access to essential services. While this gap relates to *functional ID* that proves residency and entitlement to services, the current attainments in Ethiopia relating to Fayda National Digital ID are commendable with regard to *foundational ID*. In contrast, Eritrea's nationality laws that are based on the unitary political structure remain incomplete without ratification of the 1954 and 1961 conventions on statelessness, which could enhance legal protections for citizens and stateless individuals. By engaging with these international norms, Eritrea could foster a more inclusive environment and contribute to regional stability and human rights protection. This article uses social constructivism of a qualitative method in order to analyze how social values are constructed and maintained through discourse. Understanding how discourse shapes perceptions and policies can inform strategies for social change. Social constructivism challenges dominant narratives, and can contribute to more equitable and inclusive methodological practices.

Keywords:

Nationality, Ethiopia, Eritrea, identity

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1. Introduction

This article examines the evolution, attainments and challenges of nationality laws in Ethiopia and Eritrea. As one of the earliest proclaimed laws¹ in Ethiopia's modern legal system, nationality law has undergone significant transformations, particularly influenced by historical events. The federation and secession of Eritrea (in 1952 and 1993 respectively) are historical contexts in the discourse on nationality.² Despite these changes, some fundamental aspects, such as descent-based nationality and the prohibition of dual nationality, have remained consistent to the present day.³

Dual nationality, or dual citizenship, refers to the status of an individual who is a legal citizen of two countries simultaneously. The issue of dual nationality is contentious across Africa.⁴ It is clear that African nations

¹ It was enacted in 1930.

² Daniel Mekonnen & Sara Palacios Arapiles (2022). “The Eritrean Practice of the Issuance of Identity-Proving Documents with Particular Focus on the Case of Returnees from Ethiopia”, RLC *Brief Paper* No 1 (London: Refugee Law Clinic of University of London).

³ Zecharias Fassil (2020). *Report on Citizenship Law: Ethiopia*, Country Report 2020/09 (European University Institute and Robert Schuman Centre for Advanced Studies), April 2009.

⁴ Jen Dickinson (2023). “Development, (Dual) Citizenship and Its Discontents in Africa: The Political Economy of Belonging to Liberia: By Robtel Neajai Pailey,” *The Journal of Development Studies*, Cambridge, UK, Vol. 59, No. 5 (May 4, 2023): 780–781.

adopting dual nationality policies are making significant progress. In recent years, many countries have either modified their regulations to permit dual citizenship or are actively considering such changes. Notable examples of countries that have updated their rules in the past decades include Sudan, Angola, the Republic of Congo, Burundi, Djibouti, Gambia, Gabon, Kenya, Rwanda, Mozambique, São Tomé and Príncipe, Uganda and Sierra Leone. Moreover, some nations, like Ghana and Ethiopia, have created an intermediate status for diaspora members rather than granting full dual nationality rights.⁵

The introduction of intermediate solutions in Ethiopia has added complexity to the nationality landscape, recognizing the rights of foreigners of Ethiopian origin⁶ and allowing refugees pathways to naturalization. The stringent naturalization process has evolved to become more accessible in response to emerging challenges.⁷ Owing to its significance, the subject matter of nationality law needs due attention in scholarly literature. This is in particular relevant to the institutions responsible for enforcement and individuals affected by the law.

There are substantial gaps in awareness in the larger community regarding nationality law since it is primarily enforced by administrative bodies.⁸ Gaps in awareness on administrative procedural law in Ethiopia coupled with a slow transition to a comprehensive national identification and passport management system have adversely impacted the realization of nationality rights. This situation is deeply rooted in Ethiopia's longstanding local governance structures and its historical interactions with other nations, which have preserved its national identity.

The origins of Ethiopian political society trace back to the Axumite kingdom and even before, from which Ethiopia has maintained its territorial and political sovereignty, successfully resisting colonization.⁹ Ethiopian emperors have preserved the political identity of the populace as a crucial factor or effective governance, international relations, and independence. This is exemplified by Emperor Haile Selassie's promulgation of the 1930

⁵ Bronwen Manby (2016). "Citizenship Law in Africa," *Open Society Foundation* 3.

⁶ FDRE, *Providing Foreign Nationals of Ethiopian Origin with Certain Rights to Be Exercised in Their Country of Origin Proclamation*, No. 270/2002

⁷ Zecharias Fasil, *supra* note 3.

⁸ FDRE, *Federal Administrative Procedure Proclamation*, No. 1183/2020

⁹ Bahru Zewde, ed. (2023). *Interdependence and Interactions in Ethiopian History* (Addis Ababa).

nationality law shortly after his coronation.¹⁰ Nationality serves as a fundamental link between individuals and the state, conferring both rights and responsibilities. This principle is widely recognized in legal discourse, forming the backbone of nationality law. Historically, nationality has been regarded as a vital aspect of social identity, with references dating back to biblical times.¹¹

The act of granting nationality and establishing the associated regulations is a sovereign prerogative of each state. Consequently, definitions of nationality acquisition and loss are subject to national discretion. Nevertheless, similarities exist across global nationality laws.¹² Nationality laws generally rest on two foundational concepts: *Jus Soli* (the right of soil), which grants nationality to individuals born within a country, and *Jus Sanguinis* (the right of blood), which confers nationality based on descent from citizen parents. Scholars widely agree that nationality embodies three core elements: the conferral of legal status, the empowerment of individuals as political agents, and the establishment of community membership and identity.¹³

A notable characteristic of Ethiopian nationality law is its relative stability; unlike many other public laws, it has not undergone frequent amendments. The initial nationality law has been in force across three distinct regimes. However, it is important to acknowledge that, like all laws, it is not immune to the influences of social dynamics, globalization, and political and economic integration. The 1930 law was ultimately replaced in 2003, marking a significant shift in Ethiopia's approach to nationality.¹⁴

This article examines the changes in Ethiopia's nationality law in 2003 (including the constitutional provisions under the 1987 PDRE Constitution and the 1995 FDRE Constitution) and the *challenges of equity* within the federal legal regime in Ethiopia. It also highlights the *gaps in inclusiveness*

¹⁰ *Ethiopian Nationality Law*, 1930 (22 July 1930); Available at: <https://www.refworld.org/legal/legislation/natlegbod/1930/en/14164>

¹¹ Paul J Weithman (2020). *Religion and the Obligations of Citizenship* (Cambridge University Press).

¹² Orgad Liav (2024). *Global Citizenship Law: International Migration and Constitutional Identity* (WZB Berlin Social Science Center & European University Institute Florence).

¹³ Guido A Proano (2023). *Jus Soli and Jus Sanguinis: Politics, Race, Culture, and Citizenship in the Dominican Republic and Haiti* (New York: The City University of New York).

¹⁴ FDRE, Ethiopian Nationality Proclamation No. 378/2003

within Eritrea's legal framework under the Eritrean Nationality Proclamation No. 21/1992.

In Ethiopia, the federal legal regime presents a complex landscape where the principles of equity are often tested by regional disparities and varying interpretations of the law. The federal structure, while designed to promote autonomy for diverse ethnic groups, has inadvertently led to inconsistencies in the application of justice for citizens across different areas in the country. This has raised concerns about equitable access to resources and protection of citizens. For many marginalized communities, navigating the legal system can be daunting, as they may encounter barriers. These challenges not only hinder individual access to justice but also perpetuate systemic inequalities that undermine the overall integrity of the legal system.

On the other hand, Eritrea's legal regime presents its own set of challenges, particularly regarding inclusiveness. The legal framework in Eritrea tends to lack mechanisms that ensure the participation and representation of all segments of society. This gap often marginalizes vulnerable groups, including women, ethnic minorities, and political dissenters. The absence of a robust legal framework that promotes inclusivity restricts the ability of these groups to seek legal recourse and advocate for their rights. Consequently, this lack of inclusiveness not only affects the individuals directly impacted but also stifles broader societal progress and the protection of human rights. Addressing these historical and legal challenges in both Ethiopia and Eritrea is necessary to foster a deeper understanding of how legal frameworks can either facilitate or hinder equity and inclusiveness.

This article uses social constructivism of a qualitative method in order to analyze how social values are constructed and maintained through discourse. Understanding how discourse shapes perceptions and policies can inform strategies for social change. By challenging dominant narratives, social constructivism can contribute to more equitable and inclusive methodological practices.

2. Perspectives in Nationality Laws and the Influence of International Law

In this article, the concept of 'citizenship' and 'nationality' are used interchangeably. This article uses ICJ's definition of citizenship and nationality. The International Court of Justice (ICJ) provides a comprehensive legal understanding, as demonstrated in the 1955 *Nottebohm* case, which defines nationality as a legal bond rooted in a social fact of attachment, a

genuine connection characterized by the existence, interests, sentiments, and reciprocal rights and duties.¹⁵

This perspective highlights three core elements of nationality: the legal bond, genuine connection, and reciprocal obligations. In alignment with this perspective, there are explanations of nationality as the bond of loyalty, security, and recognition that a person shares with a state.¹⁶ Consequently, nationality is considered as a status resulting from both actions and intentions, typically involving participation in state functions.

The principles of *jus soli* (right of the soil) and *jus sanguinis* (right of blood) are pivotal in determining nationality across various states.¹⁷ Although theoretically straightforward, their practical application can be complex. Some nations find a middle ground between the two principles, while others strictly adhere to one. Notably, marriage often serves as a significant factor in nationality determinations, further complicating the landscape.

This complexity in nationality law has prompted state attention, culminating in the 1930 Hague Convention on Conflict of Nationality Laws, which aimed at uniformity in nationality regulations. This Convention laid the foundation for Ethiopia's 1930 nationality law, thereby influencing the content and structure of the imperial nationality framework.

Ethiopia has actively participated in the founding of the United Nations.¹⁸ It notably voted in favor of the UN General Assembly resolution that adopted the Universal Declaration of Human Rights in 1948, marking a significant milestone in its engagement with international human rights standards.¹⁹ Ethiopia has ratified several key treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the African Charter on Human and Peoples' Rights.

The right to nationality is enshrined in several international human rights documents. Article 15 of the UDHR asserts that everyone has the right to a nationality and prohibits arbitrary deprivation of nationality or denial of the right to change nationality. Similarly, the ICCPR²⁰ stresses that every child

¹⁵ “Nottebohm (*Liechtenstein v. Guatemala*),” 1955, <https://www.icj-cij.org/case/18>.

¹⁶ Fasil Nahum (1972). “Ethiopian Nationality Law and Practice,” *Journal of Ethiopian Law* 8, No. 1: 168–183.

¹⁷ Proano, *supra* note 13

¹⁸ UN, “United Nations Charter,” 1945.

¹⁹ UN, Universal Declaration of Human Rights (United Nations, 1948).

²⁰ UN, International Covenant on Civil and Political Rights (United Nations, 1967).

has the right to acquire a nationality, while Article 7 of the CRC provides that children should be registered at birth and have the right to a name and nationality.²¹

Article 9(4) of the 1995 FDRE Constitution affirms that all international agreements ratified by Ethiopia are an integral part of the law of the land. Article 13(2) of the Constitution²² provides that the basic rights and freedoms outlined in the Constitution shall be interpreted in alignment with the principles of the Universal Declaration of Human Rights, the International Covenants on Human Rights, and other international agreements ratified by Ethiopia. These provisions illustrate that, in contemporary Ethiopia, the UDHR and international human rights instruments significantly influence the legal framework governing human rights, including the right to nationality. This alignment provides a solid legal foundation for the implementation of applicable international laws within Ethiopia.

3. Nationality Law in Ethiopia's Modern Legal History

In 1930, Ethiopia introduced the first modern law on nationality.²³ This proclamation emerged from Emperor Haile Selassie's aspirations for modernization and a global concern regarding conflicts in nationality laws among sovereign states. It was enacted following the Hague Convention on Conflict of Nationality Laws, and was primarily influenced by European systems, likely drawing significant inspiration from Swiss nationality legislation. The law was published as a legal document on July 24, 1930, and this was among the significant landmarks in Ethiopia's modern legal history.²⁴

The proclamation on nationality law in Ethiopia embodied eighteen articles. Its provisions reflected the monarchical political system of the time, where individuals were regarded as *subjects* rather than *citizens*. Articles one and two of the proclamation provided that anyone born in Ethiopia or abroad to an Ethiopian parent is recognized as an Ethiopian subject.²⁵ The choice of the term '*subject*' instead of using '*national*' highlights a hierarchical relationship, emphasizing the Emperor's Hobbesian sovereign status while positioning the populace in a subordinate role. This notion of subservience is further reinforced in the preamble of the 1931 Constitution, reflecting a

²¹ UN, Convention on the Rights of the Child (United Nations, 1989).

²² The Constitution of the Federal Democratic Republic of Ethiopia (1995), Proclamation No. 1/1995.

²³ Ethiopian Nationality Law, *supra* note 10.

²⁴ Zecharias Fassil, *supra* note 3

²⁵ Ethiopian Nationality Law, *supra* note 10.

broader commentary on the dynamics of power and citizenship within the state.²⁶

Nationality under this law was primarily based on *jus sanguinis* (right of blood), establishing descent as the key criterion for nationality. The nationality of children born from marriages between Ethiopians and foreigners was predominantly determined by the father's nationality, reinforcing patriarchal norms that have been the pattern for years.²⁷ Thus, even though the 1930 Nationality Law was a pioneer in its comprehensive approach to nationality acquisition and loss, it exhibits significant shortcomings, particularly regarding gender equality.

The provisions (of the 1930 Nationality Law) concerning mixed marriages were discriminatory. An Ethiopian woman marrying a foreign man could automatically lose her nationality if her husband's nationality was conferred upon her, while an Ethiopian man marrying a foreign woman could confer his nationality to her. This position reflects gender bias in the law, where a woman's nationality was contingent upon marital status and her husband's nationality.²⁸

Article 10 of the 1930 proclamation notably asserted that the adoption of an Ethiopian child by foreign nationals would not change the child's original nationality, reflecting an early awareness of the importance of safeguarding against statelessness. However, this provision highlights a significant oversight because it fails to address the nationality of foreign children adopted by Ethiopian citizens.²⁹ This gap in the law raises critical concerns, as it leaves open the possibility of statelessness for these children. By not considering the implications of such adoptions, the proclamation misses an opportunity to provide comprehensive protections to all children involved in adoption, regardless of their background. This inconsistency underscores the need for a more inclusive approach to nationality law that adequately addresses the complexities of modern family structures and the potential risks of statelessness.

The law further delineated the circumstances under which Ethiopian nationality could be revoked, primarily through marriage to a foreign national

²⁶ Fasil Nahum, *supra* note 16.

²⁷ R Dayanandan (2014). "Gender Issues In Ethiopia: Sounds that Reverberate in the Highlands" *World Affairs: The Journal of International Issues* 18, No. 1: 146–59.

Getachew Abera (1992). "The Nationality of Married Women under Ethiopian Law", *Journal of Ethiopian Law*, V. 15, pp. 13 - 45.

²⁸ Zecharias Fassil, *supra* note 3.

²⁹ Fasil Nahum, *supra* note 16.

or by voluntarily acquiring foreign nationality. This was a rigid approach to nationality. The law had also established a stringent framework for naturalization by requiring foreigners to fulfill specific criteria because it provided that they must be of a certain age, reside in the country for a minimum of five years, and demonstrate proficiency in Amharic.³⁰

However, within four years of its enactment, the nationality law was amended to facilitate naturalization for foreigners (deemed beneficial to the nation), indicating a shift towards more flexible criteria in response to evolving social dynamics. The law also allowed the reinstatement of nationality for Ethiopian nationals who had acquired foreign nationality, particularly women who had lost their Ethiopian nationality through marriage, but wished to regain their nationality.

4. The Ethiopian-Eritrean Historical Dynamics

4.1 General overview

While the 1930 Nationality Law encapsulates the modernization efforts of Emperor Haile Selassie I and provides a foundational framework for nationality legal framework in Ethiopia, its implementation reflects historical, social and political dynamics that necessitate critical examination. The law's strengths lie in its structured approach to nationality even if there were post-proclamation historical developments that necessitated reform.

A critical piece of legislation during this period was Imperial Order No. 6 of 1952, which marked the inclusion of Eritrea into the Ethiopian Empire.³¹ The federation of Eritrea with Ethiopia on September 11, 1952 was based on UN Resolution 390 A(V), that was passed on December 2, 1950. Order No. 6 of 1952 declared all inhabitants of Eritrea, except those with foreign nationality, as Ethiopian nationals, reflecting the complex interplay between nationality and political circumstances in the region. The federation lasted for ten years and was replaced by a unitary imperial rule since November 1962.

The relationship between Ethiopia and Eritrea has become a focal point in the discourse surrounding the Ethiopian nationality law, with ongoing legal and political implications for those affected by these policies. Eritrean nationalism has evolved significantly through various colonial and administrative phases, each shaping the identity and aspirations of its people. Sections 4.2 and 4.3 (below) deal with Eritrean nationality during three critical

³⁰ Zecharias Fasil, *supra* note 3.

³¹ Tekeste Negash (1997). *Eritrea and Ethiopia: The Federal Experience* (Uppsala : Stockholm: Nordic Africa Institute (Nordiska Afrikainstitutet).

periods: under Italian colonization, during the British administration, and under Emperor Haile Selassie's regime.

4.2 Eritrean nationality under Italian colony and British Administration

Italian colonization of Eritrea lasted for about fifty years until 1941. During this period, the Italian government implemented policies aimed at suppressing local identity while promoting Italian culture and language. However, this oppressive environment also fostered a sense of Eritrean nationalism. The initial response to Italian rule was characterized by resistance movements, such as the 1902 uprising led by local leaders against Italian taxation and land policies.³² These early acts of defiance laid the groundwork for a broader nationalist sentiment. The Italian colonial administration's efforts to impose assimilation policies inadvertently galvanized Eritrean identity, leading to the formation of various nationalist organizations.

By the 1930s, as Italy intensified its efforts to integrate Eritrea into the Italian empire, opposition grew. The rise of nationalist leaders also highlighted the desire for self-determination.³³ Ultimately, while the Italians sought to dominate Eritrea culturally and politically, their actions sparked a resistance that would evolve into a more organized movement of Eritrean nationality.

Following Italy's defeat in World War II, Eritrea came under British military administration in 1941, transitioning to a civilian government in 1947. This period marked a significant shift in Eritrean nationalism. The British administration initially allowed a degree of political freedom, enabling Eritreans to organize politically and express their national identity more openly.³⁴

4.3 Eritrean nationality under Emperor Haile Selassie I

As highlighted in Section 4.1 above, the federation between Eritrea and Ethiopia in 1952 was short-lived, as Emperor Haile Selassie I dissolved it in 1962, incorporating Eritrea and effectively ending any political autonomy. This act was met with fierce resistance from Eritrean nationalists.³⁵ Under

³² A. Zerai, "Eritrea: The Lost Nation," *The Journal of Modern African Studies* 44, no. 2 (2006): 293–318.

³³ Plaut Martin (2018). "Understanding the Eritrean Economy: A New Perspective," *Journal of Eastern African Studies* 12, No. 4: 678–695.

³⁴ Gaim Kibreab (2009). "The Eritrean Conflict: A Historical Perspective," *African Studies Review*.

³⁵ A. Zerai, *supra* note 32.

Haile Selassie's regime, Eritrean nationalism intensified as various liberation movements gained momentum. The Eritrean war for secession began in earnest, with groups like the Eritrean Liberation Front (ELF) and EPLF leading the charge against Ethiopian rule.

Nationalist sentiments were fueled by the desire for self-determination towards the creation of Eritrean Nationality.³⁶ During this time, various political parties emerged, including the Eritrean Liberation Movement (ELM) that was founded in Port Sudan on Nov. 2, 1958 and the Eritrean People's Liberation Front (EPLF) that was formed in 1973 in the Eritrean Mountains of Sahel. These groups began to articulate a vision for an independent Eritrea.³⁷

Haile Selassie's government attempted to suppress Eritrean nationalism through military force and lobby, but these efforts only strengthened the resolve of Eritrean fighters. The struggle for secession became a unifying force for Eritreans, fostering a strong sense of national identity that transcended ethnic and regional differences. On the other hand, other group of Eritreans who supported unification with Ethiopia stood along with the regime administration.

Eritrean nationality has undergone significant transformations shaped by historical contexts, from Italian colonial rule to the emergence of political movements and the fierce struggle against unification with Ethiopia.³⁸ Each period contributed to the development of a distinct Eritrean nationality and identity rooted in the desire for self-determination and autonomy. This legacy of nationality ultimately culminated in Eritrea's secession in 1993.

4.4 Eritrean political elites: separatists vs. unionists

Eritrea's political landscape is characterized by a complex interplay between two primary elite groups: the separatists and the unionists. These factions have profoundly influenced the country's history, national identity, and ongoing struggles for power and governance. Eritrea seceded from Ethiopia in 1993 after a protracted struggle that lasted nearly three decades. The two dominant groups, the separatists and the unionists, emerged from differing ideologies regarding Eritrea's relationship with Ethiopia and the future of the Eritrean nationality and statehood.

The *separatist faction* consisted primarily of those who fought for Eritrea's secession and continued to advocate for a distinct Eritrean nationality and

³⁶ Plaut Martin, *supra* note 33.

³⁷ ICG (2010). *Eritrea: A New Look at an Old Conflict* (International Crisis Group).

³⁸ Tekeste Negash, *supra* note 31.

identity, separate from Ethiopia. This group is often associated with the Eritrean People's Liberation Front (EPLF), which played a pivotal role in the secession struggle. EPLF's ideology is rooted in self-determination, emphasizing the importance of maintaining an independent Eritrean state free from external influence. Accordingly, EPLF's leadership has always maintained that Eritrea's nationality, unity and sovereignty are non-negotiable.³⁹ This sentiment resonates with many Eritreans who view secession as a hard-won right.

In contrast, the *unionist faction* advocates for closer ties with Ethiopia, often viewing the historical relationship between the two people as one of shared culture and identity. This group includes members of the Eritrean Democratic Alliance (EDA), a coalition of political parties that seek to foster unity with Ethiopia based on economic and social integration apart from their shared blood and ancestry. Unionists argue that a union with Ethiopia could bring economic benefits and stability to the Eritrean people. As noted by some researchers, the unionist perspective highlights the potential for prosperity through collaboration, positing that Eritrea's future is more viable and secure when fostered through a partnership with Ethiopia.⁴⁰

4.5 Current dynamics

The rivalry between separatists and unionists has evolved since Eritrea's secession. The political landscape had witnessed fundamental changes particularly following the peace agreement between Eritrea and Ethiopia in 2018, which ended two decades of hostilities. However, currently, this peace deal has encountered difficulties due to the steadily changing political dynamics thereby reigniting debates about national identity and the future direction of both Ethiopia and Eritrea.

The separatists, led by the ruling People's Front for Democracy and Justice (PFDJ), have maintained a firm grip on power, often suppressing dissent from unionist voices. The PFDJ's authoritarian governance model has faced criticism for its human rights abuses and lack of political pluralism. The United Nations has documented various violations, noting that the government's repressive policies persist in suppressing any form of political dissent.⁴¹

³⁹ Plaut Martin, *supra* note 33.

⁴⁰ Gaim Kibreab, *supra* note 34; Tekeste Negash, *supra* note 31.

⁴¹ UN Human Rights Council (2020). *Report of the Special Rapporteur on the Situation of Human Rights in Eritrea*.

Conversely, unionist sentiments have gained traction among Eritreans disillusioned with the status quo. Many seek greater democratic representation and an end to the PFDJ's monopoly on power. Hence, the 2018 peace deal had provided a glimpse of hope for renewed discussions about the political future of the two countries, with some Eritrean unionists advocating for a federal arrangement that respects both Eritrean sovereignty and Ethiopian partnership.⁴² The political elite groups of separatists and unionists in Eritrea reflect deeper historical, cultural, and ideological divides that continue to shape the nation's trajectory. While the separatists emphasize the importance of Eritrean nationality, independence and identity, the minority unionists advocate for a collaborative future with Ethiopia.

5. Ethiopia's Nationality Law, 1974 - 1991

The second event of reform in Ethiopia's nationality law took place during the *Dergue* military regime, which came to power after overthrowing the monarchy in 1974 and lasted until 1991. This era was characterized by a political ideology of 'socialism', which marked a significant departure from the monarchical policies of Emperor Haile Selassie I. The *Dergue* emphasized the principle of self-determination for nationalities, placing a strong focus on the development of diverse languages and cultures within the country.

The *Dergue's* approach to self-determination, however, was not fully realized and lacked the depth and breadth seen in contemporary interpretations of the concept. The 1987 Constitution of the People's Democratic Republic of Ethiopia (PDRE) encapsulated this ideological shift. Article 2 of the 1987 PDRE Constitution envisaged a unitary state that would ensure the equality of nationalities, combat chauvinism, and promote regional autonomy and the respect for the languages of various nationalities. Article 59 further stipulated that the PDRE was a unitary state composed of administrative and autonomous regions, reflecting a commitment to regional diversity within a centralized framework.⁴³

In terms of nationality, the PDRE Constitution provided specific guidelines defining nationality rights.⁴⁴ Article 31 stated that any individual with at least one parent of Ethiopian nationality is considered Ethiopian. It also allowed the acquisition of Ethiopian nationality by foreign nationals and stateless

⁴² Abdu Humadin (2019). "The Ethio-Eritrean Peace Agreement of 2018: Does the Agreement Sustain and Result in a Durable Peace?"

⁴³ "The Constitution of the Peoples' Democratic Republic of Ethiopia," *Review of Socialist Law* 14, No. 2 (1988): 181–208.

⁴⁴ Zecharias Fassil, *supra* note 3.

individuals, although the specifics were to be determined by subsequent legislation. With regard to the diaspora, Article 32 required the state to protect the rights and benefits of Ethiopian nationals residing abroad.⁴⁵

The ideological stance of the *Dergue* also extended to issues of asylum, as outlined in Article 33, which allowed the government to grant asylum to foreigners persecuted for their involvement in national liberation movements and anti-racist causes. This provision illustrated the regime's alignment with global anti-colonial and civil rights struggles, positioning Ethiopia as a supporter of liberation movements across Africa. Moreover, the PDRE Constitution provided protection to foreigners in Ethiopia through Article 34, which guaranteed rights and freedoms to foreign nationals and stateless persons within its territory. It stipulated that extradition of these individuals would only occur as dictated by international agreements, reflecting a degree of commitment to human rights norms.⁴⁶

In addition to these progressive constitutional provisions, the *Dergue* regime had promised to implement a comprehensive nationality law. Although Article 31 indicated that details would be addressed through subsequent legislation, the regime failed to enact a new nationality law during its 17 years in power. Consequently, the 1930 nationality law remained in full effect, filling the legislative void. This reliance on the earlier law illustrates the lack of political stability and the regime's inability to address nationality issues effectively.

Hence, the nationality law during the *Dergue* regime reflected a complex interplay of socialist ideology, self-determination, and the realities of a repressive political environment. While the constitutional framework aimed to promote equality and protect rights, failure to establish a new nationality law and the mass emigration of Ethiopians underscored the regime's shortcomings in effectively managing nationality issues. This period serves as a critical chapter in the evolution of nationality law in Ethiopia, marked by both aspirational ideals and stark realities.

6. Nationality Law in Ethiopia and Eritrea, Post-1991

6.1 The Ethiopian experience

The period from 1991 to the present marks a significant transformation in Ethiopia's nationality law, set against the backdrop of political upheaval and the rise of the Ethiopian People's Revolutionary Democratic Front (EPRDF).

⁴⁵ The Constitution of the PDRE, *supra* note 43.

⁴⁶ Zecharias Fassil, *supra* note 3.

This coalition (that overthrew the Dergue regime) emerged from two rebel groups known as Tigrayan People's Liberation Front (TPLF) and Ethiopian People's Democratic Movement (EPDM) in 1989. Following the *Dergue's* fall, the EPRDF established a transitional government based on a transitional charter effective from 1991 to 1995. While this charter provided a framework for governance and adopted the UN Charter on Human Rights, it notably lacked provisions addressing nationality issues. In August 1992, Proclamation No. 24/1992 was issued to establish a Constitutional Commission composed of representatives from various sectors. The Commission was tasked with drafting a comprehensive constitution.

The 1995 Federal Democratic Republic of Ethiopia (FDRE) Constitution represents a significant advancement in human rights norms, and it explicitly addresses nationality rights. Article 31 provides that nationality is derived from Ethiopian parentage, thereby maintaining a *descent-based* framework and notably excluding elements of *jus soli* (right of the soil).⁴⁷ The FDRE Constitution stands out for its progressive human rights provisions, asserting the right to nationality explicitly. This inclusion reflects a broader commitment to human rights, aligning with the Constitution's foundational principles, although the motivations behind this provision remain underexplored in the drafting archives.

6.2 The Eritrean experience

The historical context of Eritrea's secession from Ethiopia is crucial to understanding the dynamics of nationality law in this period. Eritrea declared its *de facto* statehood in 1991, a decision formalized through a referendum in 1993. This split created a complex legal landscape concerning nationality. Even though international law entitles individuals (with ties to a predecessor state) to retain rights to nationality in at least one of the successor states, this principle has often been undermined in African contexts, where transitional rules surrounding nationality have been manipulated.⁴⁸

The aftermath of Eritrea's secession saw harsh treatment of nationals from both countries, particularly during the Ethiopian-Eritrean War from 1998 to 2000. The conflict heightened tensions and led to widespread deportations and human rights abuses, illustrating the fragility of nationality rights in the face of political strife. Both governments launched campaigns to expel individuals of the other origin, often disregarding their long-standing ties to each-other.

⁴⁷ FDRE Constitution, *supra* note 22.

⁴⁸ Bronwen Manby, *supra* note 5.

The Ethiopian-Eritrean War significantly influenced nationality law and policy. The conflict raised critical questions about national identity. The lack of clear legal framework that manages the nationality status of the two states led to arbitrary decisions that severely impacted thousands of people. Authorities in Ethiopia and Eritrea initiated a campaign to expel individuals of each-other's nationals often without due process or consideration of their nationality status.

In the aftermath of the war, an Ethiopian-Eritrean Claims Commission was established to address grievances from both sides. The Commission's findings underscored the complexities of nationality in the context of the war, particularly regarding individuals who had participated in the 1993 referendum. The Commission concluded that these individuals had effectively acquired dual nationality, recognizing the legal intricacies surrounding nationality in transitional contexts.⁴⁹

7. The Current Legal Regime of Nationality in Ethiopia

7.1 The legal regime

Despite the FDRE Constitution's provision on nationality rights, the formal nationality law was not enacted until 2003 eight years after the Constitution took effect. During this period, the 1930 nationality law remained in force, and this shows prolonged delay in legislative action. Although the 2003 law aimed to modernize nationality law, the absence of a clear legislative history regarding its drafting raises questions about its implementation and alignment with constitutional aspirations.

The evolution of nationality law in Ethiopia from 1991 to the present is marked by significant political shifts and legal developments. While the 1995 Constitution has laid a progressive foundation for nationality rights, the realities of conflict, state policies, and delayed legislative action have complicated its practical application. The interplay between national identity, nationality, and human rights continues to shape Ethiopia's legal landscape, underscoring the challenges that remain in ensuring equitable and just nationality laws. Hence, the nationality regime in Ethiopia is primarily governed by the 1995 FDRE Constitution and the Nationality Proclamation enacted in 2003.⁵⁰ Together, these legal frameworks outline the rights and

⁴⁹ UN, "Eritrea-Ethiopia Claims Commission - Final Award - Eritrea's Damages Claims" XXVI (2009): 505–630.

⁵⁰ FDRE Constitution; *supra* note 22;
Ethiopian Nationality Proclamation, *supra* note 14.

processes associated with Ethiopian nationality, reflecting significant advancements from previous laws.

Article 6 of the FDRE Constitution asserts that individuals with one or both parents holding Ethiopian nationality are recognized as Ethiopian nationals. It also stipulates that foreigners can obtain Ethiopian nationality, with the specifics to be outlined by law. On the other hand, Article 33 safeguards the rights of Ethiopian citizens by ensuring that no individual can be deprived of their nationality involuntarily. It clarifies that marriage to a foreign national does not lead to the loss of Ethiopian nationality and affirms the right of citizens to change their nationality. Article 36 underscores the rights of children, declaring that every child is entitled to a name and nationality, and this shows the importance of identity from an early age.⁵¹

The 2003 Nationality Proclamation represents a significant reform compared to the 1930 law, particularly in addressing gender discrimination. The new law allows either spouse to pass nationality to their partner, thereby rectifying the gender bias in the 1930 law. It simplifies the process of acquiring nationality, by providing that “any person shall be an Ethiopian national by descent where both or either of his parents is Ethiopian.” This shift marks a move towards greater equality in the nationality process.⁵²

7.2 Modes of acquisition and loss of nationality in Ethiopia

Ethiopia’s nationality law, particularly as outlined in the 2003 Nationality Proclamation, presents a complex framework governing the acquisition and loss of nationality. This legal structure reflects the country’s commitment to protecting individual rights while recognizing the evolving nature of citizenship in a globalized world. This section examines the modes of acquiring and losing Ethiopian nationality, the implications for individuals and families, and the broader societal impact of these legal provisions.

There are several pathways through which individuals can acquire Ethiopian nationality, primarily based on descent, legal adoption, marriage, and naturalization. The cornerstone of this framework is *jus sanguinis*, or nationality by descent, where a child born to Ethiopian parents is automatically considered Ethiopian, regardless of the place of birth. This provision is crucial for preserving national identity and protecting against statelessness, particularly for abandoned infants found in Ethiopia, who are presumed to have Ethiopian parentage unless proven otherwise.⁵³

⁵¹ FDRE Constitution, *supra* note 22.

⁵² Ethiopian Nationality Proclamation, *supra* note 14

⁵³ Zecharias Fassil, *supra* note 3.

The inclusion of adoption as a means of acquiring nationality marks a significant advancement compared to prior legal frameworks. The 2003 proclamation allows adopted children to gain Ethiopian nationality, provided that specific conditions, such as the age of the child and the living arrangements of the adopting parents, are met. This development acknowledges the importance of family structures and provides legal recognition to adopted children, reinforcing their status within Ethiopian society.

Marriage also serves as a pathway to Ethiopian nationality. Foreign nationals married to Ethiopians can acquire nationality after the minimum duration of two years and residency in Ethiopia. This provision not only facilitates integration but also ensures that nationality remains intact even if the marriage ends. However, individuals retain the option to change their nationality, reflecting a modern understanding of citizenship that allows for personal agency.

Naturalization processes are elaborated in the nationality law, requiring applicants to meet several criteria, including residency, language proficiency, and good character. Notably, the law has eased language requirements, allowing applicants to communicate in any Ethiopian language rather than mandating fluency in Amharic, as was previously required. This flexibility enhances accessibility for diverse populations and aligns with Ethiopia's multicultural identity.

Recent legislative developments, particularly the 2019 Refugee Proclamation, highlight Ethiopia's commitment to integrating refugees into society. This proclamation allows refugees who have resided in Ethiopia for 20 years to apply for naturalization, aligning with international commitments such as the New York Declaration for Refugees and Migrants.⁵⁴ This integration effort underscores the recognition that nationality is essential for the full participation of refugees in their host communities, affirming their rights and fostering social cohesion.

Ethiopia's approach to nationality reflects significant progress in promoting equality and protecting the rights of its citizens. The removal of gender discrimination, the inclusion of provisions for adoption, and the acknowledgment of children's rights to nationality illustrate important strides toward a more inclusive legal framework. However, the practical implementation of these laws remains contingent upon clear regulatory

⁵⁴ UN, "A/RES/71/1: New York Declaration for Refugees and Migrants," 2016.

guidance and an ongoing commitment to upholding the rights of all individuals within Ethiopia's diverse societal landscape.

The framework for losing Ethiopian nationality is equally critical to understanding the broader implications of citizenship in the country. The 2003 Nationality Proclamation emphasizes that loss of nationality primarily occurs through voluntary actions, reflecting commitment to individual rights. Article 16 of the Proclamation affirms the right of individuals to change their nationality, and this aligns with international human rights norms. Consequently, acquiring another nationality is viewed as voluntary renunciation of Ethiopian nationality.⁵⁵

The Proclamation also introduces a nuanced understanding of dual nationality. While Ethiopian law does not officially recognize dual citizenship, it treats individuals with dual nationality as solely Ethiopian nationals until they formally renounce their Ethiopian citizenship. This provision protects individuals who may have inadvertently acquired another nationality without renouncing their Ethiopian citizenship, thereby addressing potential statelessness.

Moreover, the nationality of spouses and children remains intact even if an individual changes their nationality. This approach underscores a commitment to family unity, ensuring that decisions regarding nationality do not adversely affect the status of family members. Such provisions are particularly important in a multicultural society like Ethiopia, where familial ties often transcend legal boundaries.

Ethiopian law permits the renunciation of nationality, but only if individuals secure another nationality first. This requirement is designed to safeguard against premature renunciation, which could lead to statelessness. The law mandates that individuals fulfill outstanding national obligations and resolve legal issues before renouncing their Ethiopian nationality. These protections are commendable, reflecting commitment to preventing hasty decisions that could have severe legal consequences.

Article 33 of the FDRE Constitution ensures robust protections against the involuntary deprivation of nationality. It explicitly states that no Ethiopian national shall be deprived of their nationality against their will. This constitutional guarantee, reinforced by the Nationality Proclamation, underscores the importance of individual rights and the need for a just legal framework that respects the dignity of all citizens.⁵⁶

⁵⁵ Ethiopian Nationality Proclamation, *supra* note 14

⁵⁶ FDRE Constitution, *supra* note 22.

Ethiopia's nationality framework, as defined by the 2003 Nationality Proclamation, represents a significant evolution in the country's approach to citizenship. The legal provisions for acquiring and losing nationality reflect commitment to individual rights, family unity, and inclusivity. While the framework has made considerable strides, especially in recognizing the rights of adopted children and refugees, challenges in its practical implementation remain.

Addressing these challenges is crucial in upholding the principles of justice and equality embedded in Ethiopian nationality law. As Ethiopia continues to navigate its complex social fabric, ongoing dialogue about nationality and citizenship will be essential. Clear regulatory guidance and commitment to protecting the rights of all individuals will ensure that Ethiopia's nationality regime remains a model for inclusivity and respect in a rapidly changing world.

7.3 Dual nationality in Ethiopia

Ethiopia has consistently maintained a strict policy against dual nationality, as reflected in its legal frameworks, including the 1930 Nationality Law, the 1995 Constitution, and the 2003 Proclamation on Ethiopian Nationality. Under these laws, an Ethiopian citizen automatically loses their nationality upon acquiring another nationality, and individuals seeking naturalization in Ethiopia must renounce their previous nationality. This rigid stance raises significant questions about the implications for Ethiopians abroad and the evolving nature of nationality in an increasingly interconnected world.⁵⁷

The issue of dual nationality was debated during the constitutional drafting process, where legal experts were consulted to justify its inclusion. However, the absence of compelling arguments in favor of dual nationality ultimately led to its exclusion from Ethiopian law. Despite this official stance, anecdotal evidence suggests a potential disconnect between the law and practice.⁵⁸

Discussions are currently underway regarding the potential benefits and drawbacks of allowing dual nationality in Ethiopia. The argument forwarded in favour of dual nationality is that it could strengthen ties with the Ethiopian diaspora, foster economic investment, and enhance the country's global standing. And critics express concerns about national identity and loyalty, fearing that dual nationality could complicate legal and social obligations.

In contrast to the restrictive approach to dual nationality, Ethiopia has created an intermediate status for foreign nationals of Ethiopian origin. This

⁵⁷ Ethiopian Nationality Law, *supra* note 10; FDRE Constitution, *supra* note 22.

⁵⁸ Bronwen Manby, *supra* note 5.

reflects a broader trend observed in various African nations, aiming to enhance connections with the diaspora without fully embracing dual nationality. Proclamation No. 270/2002, which provides certain rights to foreign nationals of Ethiopian origin, illustrates this approach. It defines eligible individuals as those who are either descendants of Ethiopian nationals or who have not forfeited their Ethiopian nationality through acquisition of another nationality. Article 8(3) of the Proclamation that deals with “Identification Card Eligibility” of a spouse of a foreign national of Ethiopian origin makes specific reference to the extension of the rights to spouses possessing Eritrean nationality. This legal nuance highlights the historical context of Ethiopian-Eritrean relations and its influence on nationality law.⁵⁹

Foreign nationals of Ethiopian origin enjoy several rights, including exemption from visa and residence permit requirements, the ability to work without a permit (with some exceptions), ownership of immovable property, and access to social services. This status effectively functions as a form of dual nationality, albeit without the accompanying political rights. Ethiopia's refusal to recognize dual nationality reflects a conservative approach that prioritizes national integrity over the potential benefits of dual nationality. However, the establishment of an intermediate status for foreign nationals of Ethiopian origin demonstrates willingness to engage with the diaspora and promote economic and social connections. The ongoing debates about dual nationality highlight the need for a more nuanced understanding of nationality that accommodates the realities of globalization and the complexities of national identity.

The Ethiopian legal framework must evolve to address ambiguities surrounding nationality loss and reacquisition, particularly concerning individuals who acquire nationality through various means. Clear legal provisions would not only strengthen the rule of law but also enhance the country's ability to protect its citizens and maintain ties with its diaspora.

7.4 Gaps relating to residential ID documents

In Ethiopia, obtaining identification cards and passports are crucial for accessing a range of services and exercising rights. However, the issuances of these identification documents are not easy to obtain. These situations can exacerbate the risk of statelessness, particularly for marginalized groups. While the law asserts that there is no distinction between Ethiopian Nationality by descent and by naturalization, practical barriers exist that hinder certain communities from securing their nationality rights.

⁵⁹ Proclamation No. 270/2002, *supra* note 6.

Ethiopia's nationality law presumes that descendants of Ethiopians are citizens unless they have acquired foreign nationality. Despite this legal framework, groups such as Armenian community, Rastafarians, as well as individuals of Lebanese and Greek descent encounter challenges in obtaining these identification documents. This may lead local authorities to depriving them of various rights, driven by lack of awareness regarding nationality laws and relevant legal norms. This lack of residential identification severely restricts their mobility and participation in social and economic life.

It is worth to note that there are commendable developments in Ethiopia with regard to Fayda National Digital ID. It is a national and personal identifier backed by biometric data and based on the principle of 'one person one identity'. This is meant to address the problems of forgery and alterations of functional residence IDs provided by Kebeles. According to Article 4(1) and 4(2) of the Ethiopian Digital ID Proclamation No. 1284/2023, the objectives of the Proclamation include ensuring "residents rights to be easily identified when they move from place to place in the country" and allow "easy identification of individuals who want to receive services, to build trust between service providers and service recipients, and to prevent illegal activities". In spite of these good practices, the gaps at local levels with regard to residential identity documents and equitable (non-discriminatory) access to social services should be addressed.

Gaps in the administrative procedural law in Ethiopia further complicates matters, leaving minority groups vulnerable to arbitrary decisions made by local authorities. Lack of these documents causes the individual to face not only mobility constraints but also risks of being undocumented. This situation is particularly dire in a context where regional preferences often prioritize local residents over those from other areas.

Another troubling scenario arises when individuals with valid residential identity document from border areas of Ethiopia seek services in federal governmental offices. When presenting their residential identity document to the government Authority, they may encounter skepticism regarding their Ethiopian nationality. Such incidents, where passport officers question the authenticity of their nationality, are not uncommon and have led to numerous complaints. These actions, which fall outside the bounds of a lawful authority, undermine the rights of Ethiopian citizens and contribute to a setting of uncertainty surrounding nationality status.

The situation of internally displaced persons (IDPs) in Ethiopia exemplifies further challenges to nationality rights. The unprecedented number of IDPs has raised questions about their nationality and belonging, as they are often treated with suspicion by host communities. This stigmatization

not only affects their access to social services but also reinforces vulnerabilities that can lead to statelessness.

Hence, the risk of statelessness in Ethiopia is heightened by systemic barriers to accessing residential identification document, particularly for marginalized communities. The lack of a centralized administrative framework and gaps in the knowledge of procedural law exacerbates these challenges, leading to arbitrary decision-making by local authorities. Moreover, the treatment of IDPs complicates the landscape of nationality rights, highlighting the urgent need for reforms that ensure equitable access to nationality and protection against statelessness for all citizens. Addressing these issues is crucial for fostering inclusivity and strengthening the legal foundations of nationality in Ethiopia.

8. The Current Legal Regimes of Nationality in Eritrea

8.1 The legal regime

Eritrea's legal framework regarding nationality and citizenship is embodied in its Constitution of 1997 and the Eritrean Nationality Proclamation No. 21/1992. These domestic laws provide a foundation for citizenship rights, Eritrea's position regarding international treaties on statelessness raises significant concerns. Eritrea is a party to several international and regional treaties that establish legal standards concerning nationality and statelessness. However, it remains outside the two key international conventions specifically aimed at addressing statelessness: the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961). This article argues that Eritrea should reconsider its stance and accede to these treaties to enhance the protection of its citizens and stateless individuals within its borders.⁶⁰

The 1954 Convention relating to the Status of Stateless Persons aims to provide a legal status to individuals who lack nationality and outlines their rights, including access to education, employment, and housing. The Convention establishes a framework for the protection of stateless persons, emphasizing their entitlement to basic human rights and dignity. Furthermore, the 1961 Convention on the Reduction of Statelessness sets forth criteria for naturalization and safeguards against arbitrary deprivation of nationality. These instruments are crucial for mitigating the risks of statelessness and in ensuring that individuals are not left in legal limbo regarding their nationality.

⁶⁰ Constituent Assembly, *The Constitution of Eritrea* (Asmara, 1997); Government of Eritrea, *Eritrean Nationality Proclamation 21/1992* (Asmara, 1992).

By not ratifying these conventions, Eritrea misses an opportunity to solidify its commitment to international human rights standards. Acceding to these treaties would align Eritrea more closely with global norms, enhancing its credibility on the international stage and providing essential protections for vulnerable populations, including refugees and internally displaced persons. Eritrea's Nationality Proclamation No. 21/1992 includes several progressive elements, such as gender neutrality in the acquisition of nationality. The law permits both men and women to transmit their nationality to their children and embodies provisions on naturalization that can benefit long-term residents and those married to Eritreans. This framework aligns with many international obligations, particularly regarding gender equality and the rights of children.

However, while the Proclamation addresses certain aspects of citizenship, it lacks explicit mechanisms to prevent statelessness, especially in cases involving refugees or children born to parents of uncertain nationality. The absence of robust safeguards against arbitrary deprivation of nationality poses risks for individuals who may find themselves stateless due to changing political circumstances or legal ambiguities.

Eritrea's accession to the 1954 and 1961 conventions would not only enhance the legal protection available to its citizens but it would also reflect a commitment to address statelessness. By adopting these treaties, Eritrea would gain access to a framework that encourages the naturalization of stateless individuals and provide clarity on the rights and responsibilities associated with citizenship. This would be particularly beneficial for Eritreans living abroad and those who have faced displacement due to regional conflicts.

Ratification of these treaties can also serve as a catalyst for domestic reforms in Eritrea's nationality laws, encouraging the government to implement more inclusive policies that prevent statelessness. For example, clearer guidelines regarding nationality for individuals born in Eritrea to foreign parents or for those who migrate for economic reasons could mitigate the risk of statelessness. The implications of Eritrea's current stance on statelessness extend beyond national borders. In a region marked by significant migration and displacement, Eritrea's failure to engage with international norms on nationality could affect its relationships with neighboring countries and international organizations. By proactively addressing the issue of statelessness, Eritrea can enhance its role in regional efforts to protect human rights and promote stability.

8.2 Modes of acquisition and loss of nationality in Eritrea: Overview of the Eritrean Nationality Proclamation (No. 21/1992)

The Eritrean Nationality Proclamation (No. 21/1992) establishes a comprehensive legal framework for acquiring and regulating nationality. By articulating clear criteria for birthright nationality and naturalization, the Proclamation seeks to promote inclusion and social cohesion while reaffirming the importance of familial and ethnic ties in national identity. As Eritrea continues to navigate its post-independence landscape, the principles enshrined in this proclamation will play a critical role in shaping its legal and social fabric. The proclamation not only articulates the rights and responsibilities of citizens but also reflects the broader socio-political context of Eritrea following its secession from Ethiopia in 1993. This section provides an analytical overview of the key components of the proclamation, its implications for national identity, and its role in shaping Eritrea's legal landscape.

One of the cornerstone principles of the Eritrean Nationality Proclamation is the concept of *jus sanguinis* or nationality by descent. The proclamation states that individuals born to Eritrean parents, regardless of whether they are born in Eritrea or abroad, are recognized as Eritrean nationals by birth. This provision underscores the importance of familial ties in the construction of national identity. It reinforces the notion that Eritrean nationality is inherited, thus fostering a sense of belonging among those with Eritrean roots. Moreover, the proclamation extends nationality to individuals born in Eritrea to unknown parents, granting them the status of Eritrean nationals until proven otherwise. This provision is particularly significant as it addresses the potential vulnerability of stateless individuals and reflects a commitment to inclusivity in national identity. Such measures are vital in ensuring that the principles of nationality do not exclude marginalized groups.⁶¹

The proclamation also provides a pathway for naturalization, allowing foreign nationals to acquire Eritrean nationality. The Secretary of Internal Affairs is tasked with granting nationality to individuals who have legally entered and resided in Eritrea for specified periods prior to 1974 or for a total of twenty years. This criterion acknowledges the contributions of long-term residents to Eritrean society and facilitates their integration into the national community. Importantly, the proclamation allows naturalized nationals to have their minor offspring included in their nationality certificate, thus extending nationality to the next generation. This provision not only simplifies

⁶¹ Gaim Kibreab, *supra* note 34.

the process for families but also reinforces the idea that Eritrean nationality can be nurtured and expanded through the integration of diverse communities.

The Eritrean Nationality Proclamation serves as a foundational legal document. The proclamation entered into force upon its publication in the Gazette of Eritrean Laws, marking a critical moment in the country's legal history. The establishment of a unified legal framework for nationality is essential for promoting clarity and consistency in citizenship matters. Legal clarity is crucial for fostering a sense of national identity and belonging among citizens, particularly in a country with a complex history of conflict and migration.⁶²

The proclamation grants the Secretary of Internal Affairs the authority to issue regulations related to the forms and registers necessary for its implementation. This provision enables the government to adapt and refine the nationality process as needed, ensuring that the legal framework remains responsive to changing social dynamics and needs. Furthermore, the proclamation stipulates that decisions made by the High Court regarding nationality matters are final, thereby ensuring a conclusive legal process.⁶³ This is particularly important as it minimizes the potential for protracted disputes over nationality, which can lead to uncertainty.

Under the proclamation, individuals recognized as Eritrean by origin or birth can apply for a certificate of nationality from the Department of Internal Affairs. This certificate serves as an official acknowledgment of an individual's nationality, providing them with legal recognition and the associated rights and responsibilities. The proclamation also empowers the Department to revoke nationality if it is determined that it was acquired through fraud or deceit. This provision underscores the importance of integrity in the nationality process and reflects commitment to maintaining the legitimacy of Eritrean citizenship. Robust processes for verifying nationality are essential in preventing abuse and ensuring that citizenship remains a meaningful status.⁶⁴

The Eritrean Nationality Proclamation is more than a legal document; it is a reflection of the nation's aspirations and values. By enshrining principles of inclusion, family, and long-term residency, the proclamation seeks to create a

⁶² Plaut Martin, *supra* note 33.

⁶³ Justice Initiative Open Society, *Discrimination in Access to Nationality* - Statement Submitted by the Open Society Justice Initiative for Consideration by the United Nations Human Rights Council at Its Sixth Session, on the Occasion of Its Universal Periodic Review of Eritrea November 30 – December 11, 2009.

⁶⁴ UN Human Rights Council (2020), *supra* note 41.

cohesive national identity that encompasses both indigenous populations and long-term residents. This approach is crucial for fostering social cohesion in a nation that has experienced significant division and conflict. Moreover, the proclamation's emphasis on *jus sanguinis* aligns with broader trends in post-colonial states, where national identity is often closely tied to ethnic and familial ties. However, this focus also raises important questions about the potential for exclusion, particularly for individuals who may not fit neatly into the established categories of nationality. Hence, it is essential for Eritrea to balance the need for a cohesive national identity with the imperative to include diverse voices and experiences.⁶⁵

8.3 Dual nationality in Eritrea

In Eritrea, the question of dual nationality is a complex and often contentious issue, shaped by historical, political, and social factors. Eritrea's history has been marked by conflict and struggle for independence, culminating in its separation from Ethiopia in 1993. The establishment of a sovereign Eritrean state brought about a need for clear nationality laws. The Eritrean Nationality Proclamation (No. 21/1992) serves as the primary legal framework governing nationality issues. However, the proclamation does not explicitly address dual nationality, leading to ambiguities and differing interpretations regarding its acceptance.⁶⁶

Historically, Eritreans have migrated for various reasons, including conflict, economic opportunities, and education. This migration has resulted in a significant diaspora, particularly in countries like the United States, Canada, and the United Kingdom. Many Eritreans in the diaspora seek to maintain their ties to their homeland while also integrating into their host countries, raising questions about the viability of dual nationality. As the 1992 Nationality Proclamation establishes Eritrean nationality primarily by descent (*jus sanguinis*), it recognizes individuals born to Eritrean parents as Eritrean nationals. Yet, the legislation lacks clear provisions regarding dual citizenship. This absence creates a legal grey area for Eritreans who acquire foreign nationality.

Eritrea does not officially recognize dual nationality, primarily due to concerns about national loyalty and sovereignty. The Eritrean government has historically viewed dual citizenship as a potential threat to national unity, fearing that citizens with allegiances to other countries may undermine the state's integrity. For Eritreans living abroad, the inability to hold dual

⁶⁵ Gaim Kibreab, *supra* note 34.

⁶⁶ Eritrean Nationality Proclamation 21/1992, *supra* note 60.

nationality can have significant implications. Many in the diaspora wish to retain their Eritrean citizenship while also acquiring citizenship in their host countries. This desire stems from various factors, including the need for legal rights, social security, and the ability to participate fully in the civic life of their new homes.

The lack of recognition for dual nationality can lead to challenges for Eritreans who wish to return to their homeland. For instance, those who obtain foreign citizenship may face difficulties when they try to re-enter Eritrea or may be subject to restrictions that limit their rights as returning nationals. Furthermore, the situation is complicated by the Eritrean government's policies, which have been criticized for being restrictive and punitive. Reports from organizations such as Human Rights Watch have documented instances where individuals were denied entry or faced legal repercussions upon returning to Eritrea after acquiring foreign citizenship.⁶⁷

In the debate surrounding dual nationality in Eritrea, there are voices within the Eritrean diaspora advocating for legal reforms that would allow dual citizenship, arguing that such changes would strengthen ties between Eritreans abroad and their homeland. Proponents contend that recognizing dual nationality could enhance economic investment in Eritrea, as diaspora members would feel more secure in contributing to their home country while retaining their rights in their host nations. However, the Eritrean government remains cautious. Any discussion about changing the nationality law to accommodate dual citizenship often encounters resistance, as officials emphasize the importance of national unity and express concerns about potential abuses of dual citizenship status.

The issue of dual nationality in Eritrea is multifaceted, encompassing legal, social, and political dimensions. While the 1992 Nationality Proclamation provides a foundation for understanding nationality in Eritrea, its lack of clear provisions regarding dual citizenship creates challenges for Eritreans, particularly those in the diaspora. As Eritrea continues to navigate its post-independence identity, the conversation around dual nationality is likely to persist.⁶⁸ Balancing national integrity with the realities of globalization and migration will be crucial for the Eritrean government as it considers the future of its nationality laws. Ultimately, the recognition of dual nationality can have profound implications for Eritreans at home and abroad, fostering a more inclusive national identity while strengthening connections with the diaspora.

⁶⁷ Human Rights Watch, *Eritrea: Events of 2018, 2019*.

⁶⁸ Eritrean Nationality Proclamation 21/1992, *supra* note 60.

9. Ending Remarks

Ethiopia's federal governance structure presents significant challenges in the realm of nationality and identity. The practical role of regional governments in defining these rights has led to disparities that favour specific ethnic groups, thereby entrenching divisions within society. Inconsistent issuance of identification documents raises doubts about individuals' nationality and limits access to essential services. To address these complexities, it is crucial for the Ethiopian government to reform its residential identification processes, ensuring that all citizens have equitable access to nationality rights. Such reforms would enhance the legal framework surrounding nationality and foster social cohesion in Ethiopia's diverse, multi-ethnic landscape.

Eritrea's legal framework on nationality and citizenship, while grounded in progressive principles, remains incomplete without accession to the 1954 and 1961 conventions on statelessness. By not ratifying these essential treaties, Eritrea not only limits the legal protections available to its citizens and stateless individuals, but it also risks undermining its commitment to international human rights standards. Engaging with these conventions would enhance Eritrea's credibility on the global stage and it can facilitate the establishment of comprehensive safeguards against statelessness. Such actions could lead to necessary reforms in domestic nationality laws, fostering a more inclusive environment for all individuals within its borders, especially those affected by displacement and migration. Ultimately, embracing international norms on nationality would not only benefit Eritrea's citizens but can also contribute to regional stability and the protection of human rights in an increasingly interconnected world. ■

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