

Citizenship and state succession in the Sudans

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On 9 July 2011, the Republic of South Sudan became Africa's newest independent state. Among the many issues that were supposed to have been resolved before the formal secession of the new state – in fact, before the 9 January referendum that approved its creation – was the question of citizenship, and the rules for determining who would become a member of the new entity. This never happened.



The legal drafting issues are quite technical, but fundamentally the problem was lack of political will; above all a refusal by the Khartoum government to continue to consider the several hundred thousand “southerners” resident in the north – some of them for decades, many of them born there – as citizens of the Republic of Sudan.

Although negotiations were supposed to have resumed post-independence, both parts of Sudan have separately introduced laws and procedures to determine who will become the citizens of the Republic of South Sudan and who will remain citizens of the Republic of Sudan.

In June 2011, the South Sudan Legislative Assembly adopted a nationality law that creates four grounds on which a person can claim to be a citizen.

An individual will be considered a South Sudanese national if such person meets any of the following requirements:

(a) *Any parents, grandparents or great grandparents on the male or female line were born in South Sudan,*

(b) *Such person belongs to one of the indigenous tribal communities of South Sudan,*

(c) *Such person, at the time this bill came into force, has been domiciled in South Sudan since 1.1.1956 [the date of independence], or*

(d) *Such person has acquired and maintained the status of a South Sudanese national by an uninterrupted domicile.*

The ethnic definition of citizenship in the second paragraph could create problems for the future in the South: which groups in fact form the “indigenous tribal communities of South Sudan”? Do they include cross-border groups, pastoralists who spend only part of the year in the South, descendants of immigrants from other parts of Africa?

Arguments over these issues have led to bloodshed in a number of African countries. But the addition of other criteria, including ancestors born in the country and long-term residence, mean that at least in theory almost anyone who has a strong link to South Sudan and desires recognition of South Sudanese nationality should be able to get it.

Meanwhile, just after the separation of the two states, the National Assembly of the Republic of Sudan adopted amendments to the 1994 Sudan Nationality Act that take Sudanese nationality from any person who the government of Khartoum believes has the nationality of South Sudan – even though dual nationality with other states has in fact been allowed in Sudan since 1994. The law now states that:

An individual will automatically lose his Sudanese nationality if he has obtained, de jure or de facto, the nationality of South Sudan. [unofficial translation]

The law provides no process to allow a person to argue that he or she has not obtained the nationality of South Sudan (or even to renounce any such right in order to remain a citizen of the Republic of Sudan).

The paradox is that the very broad terms of the South Sudanese law, which appear to attribute nationality automatically to those eligible even if they are resident outside the territory of South Sudan, allow Khartoum to argue that a very large number of people (anyone with one great-grandparent born in South Sudan) are “really” South Sudanese and thus automatically lose their Sudanese nationality.

Although the authorities in Khartoum have said that there will be no mass expulsions, those whom they regard as southerners have been told that they have nine months – until 9 April 2012 – to “regularise their status”, but have not been told what this means in practice.

Meanwhile, Khartoum has also adopted a new civil registration law and biometric identity card for its citizens. In principle, this a welcome step to improve birth registration and documentation of citizens, so that they can access their rights.

In practice, the process of application for the new ID cards is being used to deprive southerners in the north of their status there, and southerners are being fired from employment and deprived of access to social services. Even those individuals with a parent from the north (and the other from the south), who under the constitution have an “inalienable right” to Sudanese nationality, are reportedly facing difficulty in obtaining the relevant documentation to prove it.

Faced with this situation, several hundred thousand people of southern origin have already headed south over the past year, on their own or with the assistance of the UN; tens of thousands of others who have made the first steps to returning, selling their homes and many of their possessions, have found themselves stuck in temporary camps.

A group of African civil society organisations known as CRAI, the [Citizenship Rights in Africa Initiative](#), supported by the [Open Society Foundations](#), has petitioned the African Union and its leading human rights body, the African Commission on Human and Peoples’ Rights, to take steps to protect the rights of people of South Sudanese origin living in the Republic of Sudan.

At the moment, however, the renewed fighting that has broken out in Kordofan and Blue Nile States, and the continued complete failure to come to any sort of agreement on the status of the “special area” of Abyei that bridges north and south, means that no agreement aiming to resolve the outstanding issues collaboratively is likely.

It is too early to tell how well the implementation of the citizenship law in South Sudan will work in practice; but sadly it seems as though for the north, Khartoum has decided that an ethnically (and religiously) restrictive definition of the nature of the Sudanese state and its membership will be even more strongly enforced, now that the troublesome south has its independence. Those excluded from this vision are already feeling its harsh effects.