

Citizenship:

Citizenship laws should not discriminate on grounds of sex or ethnicity. Men and women should have equal rights to pass on citizenship to children and spouses.

Citizenship should be granted to all those who can demonstrate an appropriate link with either state, including through birth, habitual residence or family ties.

To prevent statelessness and protect the fundamental rights of individuals with appropriate connections both states, citizenship laws should either:

- Apply the right to dual citizenship, as recognized by the Interim National Constitution, or
- Give individuals the right to choose citizenship where they have an appropriate connection to both states.

The State should not withdraw citizenship from any individual

without confirming that s/he has acquired the citizenship of another state.

Decisions affecting citizenship should be subject to judicial oversight especially in the case of withdrawal of citizenship.

Procedures for acquisition of national identity documents should be simple, transparent and accessible to all individuals including vulnerable and isolated populations.

Mass expulsion of non-nationals is prohibited. No individual who held Sudanese citizenship prior to state succession should be expelled from the territory without confirmation of citizenship of another state and exercise of due process of law.

The right of residency should be protected for those who are not granted the citizenship of their state of habitual residence.

The State should guarantee respect for the rights of individuals whose citizenship may be affected by the succession of South Sudan including: respect for property rights, the principle of family unity, right to registration at birth, right to a nationality at birth, right to freedom of movement, right of aliens to be protected from arbitrary expulsion, and other socio-economic and cultural rights.

THE INTERIM NATIONAL CONSTITUTION OF THE REPUBLIC OF THE SUDAN, 2005

Article 7

7 (1) Citizenship shall be the basis for equal rights and duties for all Sudanese.

(2) Every person born to a Sudanese mother or father shall have an inalienable right to enjoy Sudanese nationality and citizenship.

(3) The law shall regulate citizenship and naturalization; no naturalized Sudanese shall be deprived of his/her acquired citizenship except in accordance with the law.

(4) A Sudanese national may acquire the nationality of another country as shall be regulated by law.

Quick Facts:

A Stateless person is a person who is not considered to be a national under the laws of any state (Article 1, 1954 Convention on the Status of Stateless Persons).

UNHCR and other UN entities are working to ensure that statelessness does not become an unintended consequence of the independence of South Sudan.





Context

In light of the planned independence of South Sudan in July 2011, the question now arises as to who will become the citizens of the newly independent state of South Sudan and who will remain citizens of the Republic of Sudan, as well as how nationality will be retained or newly acquired. If an individual loses citizenship of the Republic of Sudan without obtaining citizenship of South Sudan, they would become stateless (unless they already have the nationality of a third state).

The situation is complicated by the fact that many people do not have identity documentation (birth certificates, national identity documents), which may cause problems with proving entitlement to the nationality of one or the other state. Citizenship arrangements may affect the estimated 1.5 million Southerners in the North and around 80,000 Northerners believed to reside in the South. Other groups at risk include tribes living close to the North-South border, couples/families with mixed backgrounds, orphans and children of unknown parentage. The CPA parties will need to ensure that these groups do not become stateless, because they are not clearly associated with either North or South Sudan.

UNHCR's mandate and activities in the field of citizenship

The United Nations General Assembly has entrusted UNHCR with a global mandate to prevent and reduce statelessness and for the protection of stateless persons since 1994. In this context, UNHCR's mandate and key concern is to prevent statelessness from arising as a result of the secession of South Sudan.

To this end, UNHCR stands by the principle that no individual should lose their Sudanese citizenship unless it is confirmed that they have obtained the citizenship of another state. UNHCR also supports a right for individuals to choose between the citizenship of South Sudan and the Republic of Sudan where they have an appropriate connection to both states (for example if they were born in southern Sudan but have lived for a significant number of years in the North). This will help facilitate durable solutions and prevent mass expulsions which are prohibited under international and African human rights regimes. UNHCR also supports a transitional period during which individuals continue to enjoy the rights attached to Sudanese citizenship and have sufficient time to confirm their nationality, make fully informed decisions about residence, and regularise their status through other means if they are not entitled to citizenship in their place of residence.

In addition to preventing statelessness, UNHCR is also concerned about the rights of internally displaced persons (Southerners in the North and Northerners in the South who were displaced from their places of origin due to conflict) to be able to remain in their current place of residence or to return voluntarily to their places of origin or settle in another place of their choosing if they so wish, in accordance with the 2009 National Policy on Internally Displaced Persons as adopted by Sudan. UNHCR also supports the right of Sudanese refugees in countries of asylum to return voluntarily to their place of origin in either the South or the North. Citizenship laws and procedures should therefore be transparent and accessible to all affected individuals including those in third countries.

UNHCR is working with UNMIS (UN Mission in Sudan) and the African Union High Level Implementation Panel (AUHIP) and other members of the international community to support the CPA parties in reaching an agreement that respects international standards and Sudan's current international and human rights obligations and to ensure that individuals do not become stateless as a result of the potential state succession.