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Sudan: Don't Strip Citizenship Arbitrarily

Sudan should not strip Sudanese nationals of southern origin of their Sudanese citizenship if they are unable or unwilling to acquire South Sudanese citizenship, Human Rights Watch said today.

The government should not presume that all Sudanese of southern origin are citizens of South Sudan and should revise its nationality law accordingly. People who wish to retain their Sudanese citizenship, rather than obtain South Sudanese citizenship, should be allowed to do so. South Sudan should ensure that those who wish to become South Sudanese ahead of an April deadline have access to needed documentation, Human Rights Watch said.

Earlier in 2012, Sudanese authorities announced that southerners should either return to South Sudan or that they would be treated as foreigners and should adjust their legal status by April 8, at the end of a nine-month transition period following South Sudan's independence. On February 12, Sudan and South Sudan re-affirmed the deadline in an agreement on modalities for returning people to South Sudan, but did not address the status of southerners wishing to remain citizens of Sudan.

"Several hundred thousand people could lose their Sudanese citizenship, including people who have no real ties to South Sudan," said [Daniel Bekele](#), Africa director at Human Rights Watch. "Sudan urgently needs to bring its nationality law in line with

international standards so it respects the right of Sudanese citizens, regardless of ethnicity or origin, to retain their citizenship.”

Although large numbers of southerners returned to South Sudan before and after the country gained its independence on July 9, 2011, an estimated 500,000 to 700,000 people of southern origin still live in Sudan. Many fled the long civil war in the south and have lived in Sudan for decades, or were born there and have few ties to South Sudan.

Under Sudanese law, which was amended following South Sudan’s independence, Sudanese people automatically lose citizenship when they acquire “de jure or de facto” the “nationality of South Sudan.” The law does not state how someone can acquire this nationality de facto or how authorities should determine whether they have acquired it.

South Sudan’s nationality law says people with “any parents, grandparents, or great-grandparents” born in South Sudan, or who belong to any southern ethnic group, are eligible for nationality. Statements and actions of Sudanese government officials indicate that they are reading these laws to mean that anyone living in Sudan with even one great-grandparent born in South Sudan will lose their Sudanese citizenship, irrespective of whether they have acquired – or want to acquire – South Sudanese citizenship.

“The fact that a person is eligible to be a citizen of South Sudan is not to say he or she has acquired South Sudanese citizenship,” Bekele said. “Sudan’s Nationality Act should be amended to remove any suggestion that a person can acquire *de facto* South Sudanese citizenship and no Sudanese official should refuse to recognize the Sudanese citizenship of any southerner unless they can show that the person has actually acquired South Sudanese citizenship.”

There are signs that Sudanese authorities have already begun to strip people of their citizenship, in violation of international law. In some cases they have refused to issue the new Sudanese national number to people because of their southern roots. The number is a required proof of identity for all Sudanese citizens.

In one example reported to Human Rights Watch, a woman of mixed heritage, whose Dinka grandparents emigrated to Omdurman, Sudan’s second-largest city, in the 19th century, was refused a Sudanese national identity card based on the nationality law. As she does not have South Sudanese citizenship, the decision effectively leaves her stateless. In another case reported by local media in December, authorities sentenced a man and his sister to a month in prison and a fine for attempting to obtain a Sudanese nationality card because although their father was Sudanese, their mother was from

South Sudan.

At the same time, [hostile rhetoric from Sudanese government officials](#) toward southerners, which began in the period leading up to the referendum, has stoked fears that large numbers of southerners will be expelled after April 8. President Omar Al-Bashir, who began calling southerners “foreign” during the referendum, has repeatedly vowed that Sudan’s new constitution will not provide any protections for non-Muslims or diversity, a threat that is widely understood in Sudan as directed against southerners and other ethnic minorities, many of whom are Christians. The government also fired southern government employees ahead of the South’s independence and closed southern newspapers in September.

The two governments have consistently failed to guarantee southerners basic rights in the event of the South’s separation from Sudan. During the six-year transition period under the 2005 Comprehensive Peace Agreement that ended the civil war, Sudan and its southern counterpart, the Sudan People’s Liberation Movement (SPLM), rejected dual citizenship or any preferential status for each other’s minority populations. They failed to act [despite repeated calls for such protections](#) ahead of the January 2011 referendum on southern independence, and remain deadlocked on this issue.

Although under international law, states have a right to control granting of citizenship, and the entry to and residency of non-citizens in their territory, a state can do so only subject to its human rights obligations. This prohibits a state from acting in a discriminatory or arbitrary manner that would result in leaving a person stateless and requires respect for the rights a person has acquired due to strong personal or family ties in the territory. International law also prohibits mass expulsions and forced evictions.

The United Nations Draft Articles on Nationality of Natural Persons in relation to the Succession of States, taking into account international law in respect of the prevention of statelessness, sets out the obligations of states to its citizens and residents in territories affected by succession. States should avoid making people who live in their territory stateless; they should not make arbitrary or discriminatory decisions on nationality and citizenship, and should take into consideration the will of the people. If an existing nationality is to be revoked upon acquisition of the nationality of the successor state, this can happen only after acquisition of the nationality, and it should not happen to those who are habitual residents in the predecessor state – in this case Sudan.

People who are eligible for South Sudanese citizenship but who have spent all or a

substantial part of their lives in Sudan have interests based on family ties or other personal, social, cultural, and economic relations that need to be protected, Human Rights Watch said. Arbitrarily stripping them of their citizenship, especially in cases where this results in statelessness, violates human rights standards.

Sudan should amend its nationality law to prevent people from becoming stateless and to ensure that the nationality criteria conform to international standards such as not excluding people on the basis of ethnicity, Human Rights Watch said. Sudan is also a party to the Convention on Elimination of All Forms of Racial Discrimination, which guarantees equality between citizens and non-citizens in all core human rights. Therefore, anyone living in Sudan regardless of citizenship should be entitled to equal protection of basic civil, political, economic, social, and cultural rights, Human Rights Watch said.

South Sudan, which has yet to provide consular services in Sudan, should also take steps to make sure anyone who is eligible for South Sudanese citizenship, and who wants it, can obtain nationality documents, said Human Rights Watch.

“No one in Sudan should be uprooted just so the government can prove a political point,” Bekele said. “Sudan should treat all its people with dignity and respect their rights.”