

Impact of Population Movements on Post Southern Sudan Referendum: Statelessness or New Citizenship?

Yukari ANDO
Specially Appointed Assistant Professor
Osaka University

The United Nations estimates approximately 2 million people were killed during the North-South Sudan internal conflict. Approximately 4 million were forcibly displaced within or outside the Sudan. As a consequence, considerable number of Southern Sudanese have resided in the North and married with Northern Sudanese during the internal conflict. After the long period of internal conflict, the Comprehensive Peace Agreement (CPA) was signed on 9 January 2005 between leading political parties, the North, National Congress Party (NCP) and the South, Sudan Peoples' Liberation Movement (SPLM). The CPA was consisted of 8 Agreements and Protocols (Machakos Protocol, Protocol on Power Sharing, Agreement on Wealth Sharing, Protocol on the Resolution of the Conflict in Abyei Area, Protocol on the Resolution of the Conflict in Southern Kordofan and Blue Nile States, Agreement on Security Arrangements, Permanent Ceasefire and Security Arrangements Implementation Modalities and Appendices, Implementation Modalities and Global Implementation Matrix and Appendices). Based on the CPA, international community including Japan has supported to observe the General Election of April 2010 followed by the Referendum of January 2011. The presenter was dispatched to Juba, capital of the Southern Sudan both the General Election and the Southern Sudan Referendum.

On the one hand, the Southern Sudan Referendum held 9-15 January this year was a symbol of the peace in Sudan. On the other hand, the status of Southern Sudanese in the North and Northern Sudanese in the South has not reached an official agreement between the NCP and the SPLM before the Referendum. As a fact of that, some people scare to become statelessness or lose residence status. Meanwhile, the Government of Southern Sudan (GoSS) has approved approximately 12.5million dollars to boost the planned repatriation of IDP Southern Sudanese from the North to the South. The international organisations such as the United Nations High Commissioner for Refugees (UNHCR) and International Organisation for Migration (IOM) are also involved the repatriation assistance. It is, however, not easy to implement as planed.

Recently the draft of the Transitional Constitution of the Republic of Sudan 2011 was released and waiting for approving by the South Sudan Legislative Assembly. The

draft is calm about the identity of the new nation. However, citizenship is fundamental idea, not ethnic, cultural, or religious identities. The Chapter II consists of "Citizenship and Nationality" as follow.

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

(2) Citizenship is the basis of equal rights and duties for all South Sudanese.

(3) Every citizen shall enjoy all the rights guaranteed by this Constitution.

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

(5) A South Sudanese national may acquire the nationality of another country as shall be prescribed by law.

(6) A non-South Sudanese may acquire the nationality of South Sudan by naturalization as shall be prescribed by law.

Article 45 (1) recognizes the alienable right of citizenship to every person born to a Southern Sudanese mother or father. Many individuals who have either Southern Sudanese fathers or mothers are eligible to become Southern Sudanese. Article 45(5) allows to hold dual or multiple nationalities, and Article 45(6) allows non-Southern Sudanese to obtain the nationality by naturalization. The Nationality Law later will be adopted.

This presentation critically attempts to examine an impact of population movements on Post Southern Sudan Referendum. In particular, the attention is raised reference to the citizenship based on the draft of the Transitional Constitution of the Republic of Sudan 2011 and focuses on the lacuna of statelessness, then how to pursue a remedy at Nationality Law.

References:

-Government of Southern Sudan (GoSS) "The Transitional Constitution of the Republic of South Sudan 2011".

-Refugees International "Sudan: Preventing Violence and Statelessness as Referendum Approaches" June 29, 2010.