

Immigration and Refugee Board of Canada

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> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

23 August 2016

SDN105600.E

Sudan: Whether a person born in Sudan to parents who are refugees is entitled to Sudanese citizenship; procedures and requirements to obtain citizenship; whether this applies to Eritrean nationals; efficacy of access to citizenship (2014-August 2016)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

An English translation of the Sudanese Nationality Act of 1994 (amended 2011), which is published by the UNHCR in Sudan, indicates the following on "Definition of Sudanese national by birth":

1. In respect of persons born before the coming into force of this Act, a person shall be Sudanese by birth if he satisfies the following conditions:
 - a. if he has already acquired Sudanese nationality by birth;
 - b. (i) if he was born in Sudan or his father was born in Sudan;

(ii) if he is residing in Sudan at the coming into force of this Act and he and his ancestors from the father's side were residing in Sudan since 1/1/1956.
 - c. if neither the person nor his father were born in Sudan, he may, if he satisfies the requirements of para. (b)(ii), apply to the Minister to grant him Sudanese Nationality by birth.
2. A person born after the coming into force of this Act shall be Sudanese by birth if his father is Sudanese by birth at the time of his birth.
3. A person born to a mother who is Sudanese by birth shall be entitled to Sudanese Nationality by birth whenever he applies for it.
4. A person born to a parent who is a Sudanese national by naturalization shall be Sudanese birth if his parents acquired Sudanese nationality by naturalization before his birth. (Sudan 1994, Ch. II, Sec. 4)

2. Citizenship for Refugees and for People Born in Sudan to Asylum-Seeking or Refugee Parents

In correspondence with the Research Directorate, an official from the Embassy of Sudan in Ottawa stated that people born in Sudan whose parents are refugees are not eligible for Sudanese citizenship (Sudan 9 Aug. 2016).

According to the US Department of State's *Country Reports on Human Rights Practices for 2015*, in Sudan, "[t]he law requires asylum seekers to register both as refugees with the Commission for Refugees and

as foreigners with the Civil Registry (to obtain a 'foreign number')" (US 13 Apr. 2016, 53). A copy of the Sudanese Asylum Regulation Act 2014, available on the website of the Project for Criminal Law Reform in Sudan (PCLRS) [1] is attached to this Response. The Sudanese Asylum Regulation Act states the following regarding obtaining Sudanese nationality under Chapter Four, "Durable Solutions":

Naturalisation

23. The laws and regulations that regulate the acquisition of Sudanese nationality by naturalization shall be applied to refugees officially recognized in Sudan. (Sudan 2014)

The Nationality Act of 1994 (amended 2011) provides the following regarding nationality obtained by naturalization:

7. (1) The Minister may grant Sudanese nationality by naturalization to any alien if he submits an application in the prescribed form and proves to the Minister that:

- a. he has attained the age of majority;
- b. he is of complete capacity;
- c. [he has been] [r]esiding in Sudan lawfully and continuously for 10 years or more;
- d. he is of good morals and was not previously convicted of a crime against honour or honesty;
- e. [t]o be of sound mind;
- f. [t]o have a lawful way of earning a living

(2) A certificate of Sudanese nationality by naturalization shall not be granted to any alien under the provisions of sub-section (1) save if the applicant performs an oath of allegiance in the form provided for in the schedule annexed hereto.

(3) The alien shall acquire Sudanese nationality by naturalization from the date that the certificate is issued.

(4) The Minister may, upon application, include in the certificate of Sudanese nationality by naturalization the names of minor descendants [sic] if the certificate is granted to their responsible father and those minors shall have Sudanese nationality by naturalization from the date of entry of their names in the certificate.

(5) A certificate of Sudanese nationality by naturalization, if granted before the application of this Act, shall be deemed a certificate granted under the provisions of sub-section (1).

[...]

9. Notwithstanding any provision to the contrary in this Act, the President of the Republic may, upon the recommendation of the Minister, grant Sudanese nationality by naturalization to any alien. (Sudan 1994)

In correspondence with the Research Directorate, a lawyer based in Khartoum stated that "any alien may apply to nationality by naturalization under section 7 of the Sudanese Nationality Act 1994 ... Also under section 9 of the same Act, the President of the Republic has the absolute discretion to grant nationality by naturalization to any alien" (Lawyer 2 Aug. 2016).

In correspondence with the Research Directorate, a professor of political science at Pennsylvania State University, who specializes in African institutions and governance, stated that people born in Sudan to refugee and asylum-seeking parents "cannot obtain [Sudanese] citizenship. They are only allowed to stay on 'temporary' basis. Many have stayed in Sudan as refugees for decades without obtaining citizenship" (Professor 29 July 2016). The same source also explained that "Sudan only accepts Eritrean refugees on temporary basis. There is little mechanism that allows refugees or their Sudan-born off-spring to become Sudanese citizens" (ibid.). Without providing further information, the lawyer gave the view that, "in practice [Sudanese citizenship] is not obtainable" for refugees (Lawyer 2 Aug. 2011).

Further and corroborating information could not be found among sources consulted by the Research Directorate within the time constraints of this Response.

2.1 Whether Children of Asylum-Seeking or Refugee Parents Can Seek Formal Refugee Status in Sudan

The Asylum Regulation Act 2014 states the following regarding the adjudication of an asylum application in Sudan:

- 1. The Commissioner or his delegate shall examine the asylum application as soon as possible within a term not exceeding three months from the date of the submission of the asylum

application. The adjudication of asylum applications will be done in a manner consistent with the basic procedural standards specified by regulations:

2. If the asylum application is accepted, the asylum seeker and his dependants enjoying derivative status as refugees shall be registered in the central registry. (Sudan 2014, Ch. Two, Sec. 9)

Country Reports 2015 states that "[t]he government granted asylum to many asylum seekers, particularly from Eritrea, Syria, Somalia, and Ethiopia ... Government officials routinely took up to three months to approve individual refugee and asylum status" (US 13 Apr. 2016, 52-53). Sources stated that people born in Sudan to refugee or asylum-seeking parents may seek formal refugee status in Sudan (Lawyer 2 Aug. 2016; Sudan 9 Aug. 2016). The Professor indicated that "as refugees arrive in Sudan they register with the UNHCR as refugees and Sudan gives them a blanket acceptance. In practice that acceptance means a temporary (which can last for decades) stay" (Professor 29 July 2016).

Further and corroborating information could not be found among sources consulted by the Research Directorate within the time constraints of this Response.

2.2 Whether there are Specific Procedures for Eritrean Nationals

Without providing further details, sources stated that there is no different procedure for people specifically of Eritrean nationality to apply for Sudanese citizenship (Sudan 9 Aug. 2016; Lawyer 2 Aug. 2016). Further and corroborating information on whether there are specific application procedures for Eritrean nationals could not be found among sources consulted by the Research Directorate within the time constraints of this Response.

3. Efficacy of Access to Citizenship Through Naturalization

A November 2011 report produced by UNHCR's Policy Development and Evaluation Services, titled *No Turning Back: A Review of UNHCR's Response to the Protracted Refugee Situation in Eastern Sudan*, indicates that refugees are "generally deprived of access to naturalization and citizenship" (UN Nov. 2011, para. 80). The same source further states the following regarding the implementation of the Sudanese Nationality Act as applied to refugees:

81. [...] In principle, citizenship by means of naturalization is available to everyone 'of full age and capacity, [who] has been domiciled in the Sudan for a period of ten years immediately proceeding the date of the application ... has an adequate knowledge of Arabic language ... is of good character and has not previously been convicted of a criminal offence, [and] if he is a national of any foreign country [has] renounced and divested himself of the nationality of that country.'

82. According to this law, naturalization and citizenship should in principle be available to eastern Sudan's longer-term refugee population, the majority of whom actually or potentially fulfill the criteria set out in the preceding paragraph. According to a paper commissioned by UNHCR in 2009, however, living in Sudan as a refugee and being recognized as such by the authorities does not constitute 'legal residence', making it impossible for Eritreans to meet the requirements of the Nationality Act. (UN Nov. 2011, redacted in original)

A 2013 news article by the International Catholic Migration Commission (ICMC) [2], states that "[s]ome Eritreans have accessed Sudanese citizenship, but have relied on personal connections and significant resources in order to do so" (ICMC [2013]). The Professor stated that he is "not aware" of Sudanese citizenship being accessible; however, he gave the opinion that "Sudanese society is generally very hospitable and generous to refugees. But there is no state procedure of integrating refugees as citizens" (Professor 29 July 2016). *Country Reports 2015* states that "[a]lthough the new Asylum act makes naturalization possible for refugees ... it is not fully implemented" (US 13 Apr. 2016, 54).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The PCLRS is a collaborative project by REDRESS, a UK charity, and community and civil society organizations in Sudan, to engage with government officials and international agencies in order to advocate for criminal law and human rights reforms in Sudan (PCLRS n.d.).

[2] ICMC is an international NGO working in the area of migration and refugee assistance; it "was founded in 1951, in the wake of the massive human displacement caused by the Second World War" (ICMC n.d.).

References

International Catholic Migration Commission (ICMC). [2013] "[Eritrean Refugees in Eastern Sudan](#)." [Accessed 16 Aug. 2016]

International Catholic Migration Commission (ICMC). N.d. "[About Us](#)." [Accessed 16 Aug. 2016]

Lawyer, Khartoum, Sudan. 2 August 2016. Correspondence with the Research Directorate.

Professor of political science, Pennsylvania State University. 29 July 2016. Correspondence with the Research Directorate.

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Sudan. 9 August 2016. Embassy in Ottawa. Correspondence from an official to the Research Directorate.

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Sudan. 1994 (amended 2011). [The Sudanese Nationality Act 1994](#). Published by the UNHCR, Sudan. [Accessed 13 July 2016]

United Nations (UN). November 2011. UN High Commissioner for Refugees. [No Turning Back: A Review of UNHCR's Response to the Protracted Refugee Situation in Eastern Sudan](#). [Accessed 25 July 2016]

United States (US). 13 April 2016. Department of State. "[Sudan](#)." [Country Reports on Human Rights Practices for 2015](#). [Accessed 15 Aug. 2016]

Additional Sources Consulted

Oral Sources: Priority Africa Network; Global Migration Editor, IRIN.

Internet sites, including: Africa Confidential; The African Child Policy Forum; Amnesty International; Article 1; ecoi.net; Enough Project; Factiva; Freedom House; Global Migration Policy Associates; Human Rights Watch; Institute on Statelessness and Inclusion; IRIN; Médecins sans frontières; Open Society Foundations; Pambazuka News; Radio Dabanga; Sudan Tribune; Sudan – Ministry of Interior, UN – Office for the Coordination of Humanitarian Affairs, Refworld, Reliefweb; US – Department of State, Library of Congress; Waging Peace.

Attachment

Sudan. 2014. [Asylum Regulation Act 2014](#). Published by Project for Criminal Law Reform in Sudan (PCLRS). [Accessed 16 Aug. 2016]

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