Abstract:

Current Sudan witnessed recent changes or transfer of its territory or sovereignty after the secession of South Sudan. Naturally, this situation will trigger massive changes and adoption of new nationality laws or decrees and new administrative procedures. As a result, many individuals may be rendered stateless in this context if north or south Sudan failed to adopt appropriate legislations to prevent loss of nationality. Thus, this Article therefore focuses on nationality and statelessness in the context of state succession in Sudan with particular focus on developing an objective, inclusive and nondiscriminatory criteria in order to avert statelessness in the future new Sudan(s). In this respect, the Article first examines Sudan’s citizenship laws and constitutions adopted post secession period in both north and south in order to see to what extent national legislations envisage or provide guarantees against individuals being rendered as stateless. In particular, the Article draws on the 2005 Interim National Constitution, the 1994 Sudanese Nationality Act (amendments 2005, and 2011), the 2003 New Sudan Nationality Act, the 2011 South Sudan Nationality Act and the 2011 Draft Transitional Constitution of the Republic of South Sudan. Most of the aforementioned laws were amended and adopted after the declaration of the Republic of South Sudan as an independent sovereign State on July 9 2011. This Article also pays particular attention to certain segments of the society or vulnerable groups that may be at risk of being rendered stateless in post Southern Sudan secession such as women; IDPs, pastoralists and border communities and ethnic minorities. In order to prevent or mitigate statelessness this Article suggests that Sudan should adopt an objective, inclusive and non-discriminatory criteria. These criteria shall be based on appropriate ties to the State in question (birth in the territory, habitual residence, family ties) rather than ethnic origin. Recognition of dual citizenship or providing for a right to choose where two citizenships are available can also help reduce statelessness.