

Kenyan Nubians: standing up to statelessness

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There is no official recognition of the Nubian community in Kenya and they face considerable discrimination as a result.

Kenyan Nubians have been defined as stateless people because their identity is questioned. They are without doubt one of the country's most invisible and under-represented communities – economically, socially, politically and culturally. This is because they have been silent victims of discrimination, exclusion and violations of human rights and fundamental freedoms for as long as they have been in Kenya.¹

Recent writing on issues of identity, citizenship, statelessness, marginalisation, and integration of minorities in Kenya has featured the Nubian community in one form or another. As a Nubian in East Africa and an activist, I experience these issues directly and forcefully.

My great-grandfather worked in the service of the British in Somalia around the First World War and later resettled in Meru, a small town on the slopes of Mt Kenya. His father before him worked for the Turko-Egyptian army in the Sudan. I, like my parents, was born in western Kenya.

Although I am well educated, I have experienced serious difficulties in interacting with government officials. Between 1992 and 2000, I applied unsuccessfully for a passport five times, losing jobs in the process. One manager once asked me why I did not have a recognisable ethnic identity and that this was why I could not be promoted. Apart from studying to university level, which is an exception rather than the rule, mine may as well be the story of most Nubians. It is a story characterised by the need to survive through challenges that are never explained to you. It is a story characterised by limited interactions with state officials who always remind you it is your privilege to be served by them. It is a story characterised by assuming false identities in order to belong.

Before I encountered these challenges in my own life and found out that many of my Nubian colleagues gave up hope of productive careers because of delayed or denied identity cards, I had accused most of them of being lazy. Today I understand that Kenyan Nubians, whether citizens or not, do not belong.

Nubians and statelessness

The Nubians first arrived in Kenya in the early 1900s and now number about 100,000. Nubians in East Africa are not a single ethnic group but a constellation of people belonging to different tribes. As a result of history, their religion (Islam) and their origins in the military, they have acquired a shared identity.

The vast majority of the Nubians in East Africa are descendants of Sudanese ex-servicemen in the British army. Following a mutiny in 1897 the British rescinded its decision to repatriate them and instead dispersed the community into Kenyan territory. The Nubians, who by then retained no ties with Sudan and had no claim to land in that country, could not return independently to Sudan and were therefore left with no choice but to remain in Kenya. Nubian villages became breeding grounds for soldiers for the British army. Although these people were forced conscripts into the Turko-Egyptian and British armies while Sudan was under Anglo-Egyptian rule, they also contributed to the British military efforts during the First and Second World Wars.

They were demobilised without proper compensation, pension or after-service benefits. Unlike the Indians who had also been relocated into the region by the British to render similar services, the Nubians were not accorded the privilege of British citizenship despite their loyal service to the British Crown. When constructing Kenya's social

set-up, the British colonial authority consolidated ethnic groups and designated them to native reserves. They deliberately left out the Nubians who were considered a detribalised community rather than a Kenyan tribe. The British also ensured that Nubians only owned temporary structures on the land they occupied. These events and decisions are the origins of the Nubians' temporary existence. As a consequence of this history and despite more than a century on Kenyan territory, Nubians do not belong to the social set-up of Kenya.

The Kenyan government uses both ethnicity and territory to establish belonging. Since both Nubian ethnicity and their territory of occupancy are contested by the government, most Nubians live as *de facto* stateless persons without adequate protection under national and international law, irrespective of the fact that they should be considered Kenyan citizens under the Constitution. In Kenya nothing defines your citizenship more than your ethnicity. Nubians face institutionalised discrimination in issuance of documents. They are subjected to a vetting process of ethnic determination in order to acquire an identity card or passports.

Kenya today does not have official figures of Nubians and does not include them in census reports. There is no official recognition of the community; the Kenyan government had classified the community as 'other Kenyans' or just 'others' and has only recently started a process of recording Nubians as a named clan of other Kenyans.

Above all, Nubians live in temporary structures throughout Kenya and often on contested lands. Most Nubians' settlements do not have title deeds and are only occupied on a Temporary Occupational Licence (TOL), leaving the present generation of Nubians as mere squatters.

Stateless individuals and communities like the Nubians are assumed to be hopeless and helpless victims, dependent upon the goodwill of others. Under the assumption that citizenship is the only vehicle for having a civic and political voice and that therefore stateless people lack any political identity, stateless people become less than fully human and are reduced to mere targets of humanitarian assistance. All energies are thus focused on how to acquire citizenship for stateless people as fast and as easily as possible.

What are the Nubians' issues?

Obstacles to citizenship are also faced by other minority groups in Kenya such as Kenyan Somalis and Coastal Arabs although the Nubians have experienced some progress. The real progress in Nubian experience is in their adaptation and mastery of living in Kenya without belonging. Lack of direct representations in any form of government has meant that Nubians speak through a third party. Where they have had the vote, Nubians have voted for any government in

power, however badly they have been treated by the institutions of that government. However, their lack of acceptance in society has emboldened the Nubian community's resolve to use other institutions of government to address their problems.

In 2003 the then Chairperson of the Kenyan Nubians' Council, the late Yunis Ali, encouraged a procession of Nubians marching to Kenya's High Court thus:

"My people! For a century, we have sought a compassionate hearing from all authorities in Kenya but we got none. Today, we march to the Kenyan High Court for justice – if not to get it, then as testimony that we stood up for our rights."

In the end, the challenge of standing up to statelessness – or any human rights abuse – is that as a victim you see it through the emotional lenses of feelings and experience; others will then judge you as subjective. When you stand apart and subject the issue to objective criteria, legal

definitions limit one's expression; most of the legal terms are not expressive enough for local realities. For Kenyan Nubians the lack of a link to the state, lack of integration and lack of social acceptance have been part of our existence. We are neither Sudanese nor accepted as Kenyans.

As a statelessness advocate, I believe that legal links are important for anyone belonging in contemporary society; however, without addressing the social acceptability of any community of a people, groups like the Nubians will continue to live from one crisis to another.

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1. Makoloo, MO (2005). *Kenya: Minorities, Indigenous People and Ethnic Diversity*. London: Minority Rights Group International.