National Human Rights Commission, The Gambia

SIR DAWDA KAIRABA JAWARA INTERNATIONAL HUMAN RIGHTS MOOT COURT COMPETITION

HYPOTHETICAL CASE

IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

2026

CENTER FOR HUMAN RIGHTS (CHR)

AND

THE REPUBLIC OF NUBIA

1. The Republic of Nubia is a member of Economic Community of West African States (ECOWAS) with a population of 5 million people. Nubia attained independence on 19 April 1960 from Britain after four hundred years of colonialism. The country remains stable since independence with a very strong multiparty democracy. The most recent peaceful change of government happened in 2021 when the coalition candidate of Jamaji Faal won the presidential elections following the end of the second term of the country's youthful leader, President Kwesi Makaida. Despite Nubia's progressive posture, the country has remained among the least developed countries in the sub-region with limited natural resources and consistent budget deficit. The enormous tourism industry of the country contributes over 40% of the GDP. However, the country has a heavy debt burden that is over 35% of its GDP.

2. Nubia has a common law legal system built on the Nubian Constitution of 1970. Chapter Four of the Constitution protects fundamental human rights and freedoms similar to the content of the African Charter on Human and Peoples' Rights. The courts administer the English common law and customary law. The common law courts are presided over by judges trained on common law jurisprudence and is structured in a hierarchy with the Supreme Court being the final appellate court. The Customary Courts, on the other hand, are presided over by persons who are trained on the customs of the community concerned.

3. Nubia is a party to the following international human rights instruments:

Treaty	Year of Ratification
The African Charter on Human and Peoples' Rights (African Charter)	19 December 1986
The International Covenant on Civil and Political Rights (ICCPR)	18 February 1980
The International Covenant on Economic, Social and Cultural Rights (ICESCR)	26 March 1981

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)	8 June 2006
OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention)	9 August 1998
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	8 April 2005
UN Convention on the Rights of the Child (CRC)	12 March 2007
The African Charter on the Rights and Welfare of the Child (ACRWC) with a reservation to articles 6, 11 and 19;	19 June 1990
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	2 January 1980
Convention on the Rights of Persons with Disabilities (CRPD)	3 March 2010
Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (African Court Protocol) but has not made Article 34 (6) Declaration.	12 March 2020
Protocol to the African Charter on Human and Peoples' Rights on Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa[1]	18 February 2024

4. The Makones of Nubia are Bantu speaking that dwell between three countries with a combined population of 150,000 people. They live around the riverbanks of Bintang Bolong that stretches between Nubia, Saliya and Toro. They are believed

[1] This treaty was adopted by the African Union on 18 February 2024 but has not yet obtained the number of ratifications required for its entry into force. For the purposes of this case, however, it is assumed that the treaty has entered into force and has been ratified by the Republic of Nubia.

to have migrated from the Republic of Daru as early as 1934 and have remained largely between Nubia, Saliya and Toro. They consist of descendants of pre-independence mercenary forces hired by the Kabakas of Nubia to fight against the combined forces of French West Africa Regiment and the British West African Forces in Nubia. After the wars, many descendants of the Makones settled in Nubia.

5. The Makone people have historically maintained a distinct cultural and linguistic identity despite their prolonged settlement across the territories of Nubia. Following independence, the three States adopted separate nationality laws based primarily on territorial links, birth registration and proof of descent from persons recognised as nationals at the time of independence. However, because the Makone communities had lived and moved freely across the Bintang Bolong river basin before the establishment of the modern borders, many Makone persons lacked documentary evidence of their place of birth or the nationality of their parents. The problem was compounded by the fact that their ancestors had migrated from Daru before the independence of the three States and were regarded by the authorities as foreigners or temporary labourers rather than members of the newly constituted nation states. Successive generations of Makone children were frequently unable to satisfy the documentary requirements for recognition as nationals of any of the three States.

6. The absence of recognised nationality has exposed the Makones to legal and socio-economic consequences. Many Makones are unable to obtain national identity documents such as birth certificates or passports and are often denied or restricted in their access to education, formal employment, healthcare, land ownership and political participation. Although the Makones have lived in the region for generations, Nubia, Saliya and Toro each maintain that the responsibility for recognizing their nationality lies with one of the other States. Similarly, Daru does not recognise most Makone descendants as its nationals because they were born outside its territory and their ancestors left Daru several generations ago.

7. Nubia has, in recent years, rolled out programmes aimed at supporting the integration of the Makone community into a wider Nubian society. In the year 2000,

the Government invested in the construction of low-income houses, health centres and schools in areas predominantly inhabited by Makones. The Government has also extended access to clean water, electricity and other basic public infrastructure to these communities. In addition, young Makones have been included in various government livelihood programmes intended to improve household incomes and economic self-sufficiency.

8. The Government has also established community outreach programmes through which Makones may engage directly with local authorities on access to public services. Particular attention has been given to women and children who have been encouraged to participate in these programmes and to access available health, education and livelihood services. However, the Makones have remained largely reluctant to participate in some of these initiatives, due to concerns that engagement with Nubian authorities could expose undocumented Makones to identification, removal or deportation. These concerns are rooted in the community's historical experience of constant threats of deportation by the authorities.

9. The Makone community therefore finds itself caught between different nationality regimes, with no effective legal avenue through which they can establish or acquire a nationality. The situation has become particularly acute among children born to Makone parents. In September 2021 Pete, an eight-year-old Makone child, was unable to enroll in a public school in Nubia because the parents could not produce the documentation required to establish his Nubian nationality.

10. Pete’s father, a Makone, moved permanently to Nubia 17 years ago, where he married a Nubian. He works as a stevedore at the Ndema Seaport where he earns a modest income that he uses to pay the family's rent and meet other household expenses. Pete’s mother sells food near a local school, and the proceeds from her small business contribute to the upkeep and education of her two children, including Pete. Despite being born in Nubia, Pete could not acquire Nubian nationality because only Nubian men can pass nationality to their children. This restriction has its genesis in the Mara culture of Nubia where inheritance and succession are patrilineal.

11. When Pate’s parents attempted to enrol him in a public primary school, the school authorities informed them that Pete could not benefit from the free education available to Nubian nationals because he could not produce proof of nationality. He was instead required to pay school fees applicable to non-nationals. Pete's parents, already dependent on a modest income from his father's work at the seaport and his mother's food business, could not afford the school fees. This situation caught the attention of child welfare organisations that focused on the situation of Makone children in similar situations in Nubia.

12. Under Section 5 of the Nationality Law of Nubia 1970, citizenship is not automatically conferred upon a child born in Nubia where the father is non-citizens of Nubia. A child who has continuously resided in Nubia for 12 years following his or her birth in Nubia may apply for citizenship. The relevant provision is hereby produced: Section 5 of the Nationality Law of Nubia 1970 provides:
    (1) A child born within the territory of Nubia shall not, solely by reason of birth in Nubia, be deemed to be a citizen of Nubia except where the father is a Nubian at the time of the child's birth.
    (2) Notwithstanding subsection (1), a person born in Nubia who has attained the age of 12 years and has ordinarily and continuously resided in Nubia from the date of birth may apply to the competent authority for registration as a citizen of Nubia.
    (3) An application under subsection (2) shall not be refused solely on the grounds that the parents of the applicant are not citizens of Nubia.
    (4) In determining an application under this section, the competent authority shall have regard to the applicant's place of birth, period of residence in Nubia, family and community ties, and any other relevant circumstances.

13. Historically, this provision has been a subject of litigation by Green Empowerment, a women group, in 1980 when Nubia promulgated the Commercial Practices Act. Green Empowerment challenged the application of the Commercial Practices Act 1980, which prohibited non-Nubian citizens from owning shares in companies registered in Nubia. The litigation eventually came before the Supreme Court of Nubia in 1997, which was called upon to consider the relationship between the

Commercial Practices Act 1980 and Section 5 of the Nationality Law of 1970. The Court decided ***obiter dicta*** that Section 5 of the Nationality Law of Nubia is consistent with the human rights in Chapter 4 of the Constitution.

14. Center for Human Rights, a prominent human rights organisation with observer status before the African Commission, became aware of the situation of Pete and other children and filed a class suit in the High Court of Nubia to challenge what it described as ‘‘denial of the right to citizenship to Makone children.’’ The matter attracted a lot of public attention. When the Center’s lawyers appeared before the High Court to argue whether the right to citizenship of Pete and other Makone children had been violated, the Court noted the absence of the children and rejected the lawyers’ request to postpone the matter to ensure their presence. The High Court struck out the case. The Center appealed to the Court of Appeal, which upheld the High Court’s decision. The Center then appealed to the Supreme Court. However, the appeal was filed after the expiry of the 60-day limitation period for appeals from the Court of Appeal to the Supreme Court. In April 2024, the Supreme Court ruled that the appeal had been filed out of time.

15. Lamtoro Mbemba, a human rights lawyer of Makone descent, was very instrumental in bringing the plight of Makones to the attention of the international community. He was born in Nubia to parents from Toro and by virtue of that he is entitled to citizenship of Toro. He advocated for the recognition of the Makones as citizens of Nubia. Lamtoro submitted a formal petition to the United Nations Special Rapporteur on Minority Issues in 2019, in which he complained about what he described as Nubia’s inadequate efforts to address the lack of citizenship of Makones. He called for greater international attention to the situation and urged Nubia to adopt measures to provide an effective pathway to citizenship for Makones who have substantial ties to Nubia.

16. Lamtoro also pursued the matter through regional mechanisms. He made series of submissions at African Union forums, to draw attention to the citizenship and documentation difficulties experienced by the Makone community and their consequences for the enjoyment of fundamental rights. He further wrote to

ECOWAS, calling upon the regional organisation to take note of the situation. However, these efforts did not lead to significant changes in Nubia.

17. In 2021, when Nubia hosted the ECOWAS Heads of State and Government Summit, Lamtoro organised a peaceful demonstration with other Makone activists to draw attention to the continued exclusion of Makones. The national security authorities did not anticipate the demonstration, and it coincided with the arrival of several Heads of State and senior government officials attending the Summit. The demonstrators gathered along a route being used by the presidential motorcade of the President of Toro and blocked the motorcade. This resulted in a standoff between the protesters and security forces that lasted for several hours and attracted domestic and international media attention. Several demonstrators were arrested.

18. Lamtoro was arrested and detained for several days. He was subsequently charged under Section 2 of the Terrorism Act of 2004. The High Court granted him bail and the trial went on for several years before he was convicted in absence. While he was on a visit to Saliya in October 2024, the Minister of Interior of Nubia revoked his citizenship pursuant to Section 84 of the Terrorism Act 2004. Section 84 provides that:
    (a) The Minister of Interior may by order deprive a person of a citizenship status if the Minister is satisfied that deprivation is conducive to the public good.
    (b) The Minister may not make an order under (a) if he is satisfied that the order would make the person stateless.
    (c) Before making an order under this section in respect of a person, the Minister must give the person written notice stating that the Minister has decided to make an order, the reasons for the order, and the person's right of appeal under the Act.

19. Lamtoro’s lawyers filed for judicial review in the High Court and lodged an appeal to the Immigration Board simultaneously in January 2025. In November 2025, the High Court dismissed his application because there were not sufficient grounds to

disturb the Minister's decisions under Section 84 of the Terrorism Act of 2004. Dissatisfied with this decision, his lawyers approached the Center for support to bring the claim to the African Court on Human and Peoples' Rights.

20. On 17 December 2025, the Center submitted an application to the African Court on Human and Peoples' Rights in Arusha, Tanzania to make the following findings:
    a. That Nubia's failure to recognise Pete as a national, violates his right to a nationality and protection against statelessness in international law.
    b. That denial of access to free public primary education to Pete and similar children violates their right to education and protection against discrimination.
    c. That the revocation of the citizenship of Lamtoro Mbemba violates his fundamental rights in the African Charter on Human and Peoples' Rights.
    d. That Section 5 of the Nationality Law of Nubia is inconsistent with Nubia's human rights obligations.

21. On 1 October 2026, the Republic of Nubia deposited a Declaration under Article 34(6) of the African Court Protocol to allow individuals and Non-Governmental Organisations to access the African Court directly. The African Court scheduled the hearing of the case for 10 December 2026. Prepare submissions on behalf of the Centre for Human Rights (the Applicant), and Nubia (the Respondent). In respect of each of claims (a) to (d) above, address the issue of jurisdiction, admissibility, merits and remedies.