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THE REPUBLIC OF UGANDA
THE EQUAL OPPORTUNITIES COMMISSION TRIBUNAL
HOLDEN AT KAMPALA
COMPLAINT NO: EOC/GIF/CR/005/2024

10 **GENERAL INQUIRIES FILE.....COMPLAINANT**
VERSUS
ARUA CITY AND ORS.....RESPONDENTS
BEFORE: HON DENISE TUSIIME

15 **JUDGEMENT OF THE COMMISSION**

INTRODUCTION

This Judgement arises from a Public Inquiry conducted by **the Equal Opportunities Commission** (hereinafter “the Commission”) pursuant to **Article 32(3)** of the **Constitution of the Republic of Uganda, 1995** and **Sections 14 and 15** of the **Equal**
 20 **Opportunities Commission Act, Cap 7.**

The inquiry concerns allegations of systemic discrimination, marginalization, and denial of equal opportunities against the Nubian Community in Arua City. The proceedings were conducted on **12th May 2025**, and the Commission considered both documentary evidence and oral testimony recorded in the official proceedings.

25 **ISSUES FOR DETERMINATION**

The Commission frames the following issues:

- a) Whether the Nubian Community is a marginalized ethnic minority entitled to protection.
- b) Whether the Respondents have engaged in direct or indirect discrimination.
- 30 c) Whether systemic exclusion exists in governance, employment, and service delivery.
- d) Whether the rights to culture, identity, equality, and participation have been violated.
- e) What remedies are appropriate.

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5 **SUMMARY OF EVIDENCE**

The Commission carefully considered the testimony presented on behalf of the Nubian Community, which was delivered through their witness, the **Prime Minister of the Nubian Community**, a person holding a position of leadership and responsibility within the community.

- 10 At the outset, the witness situated the complaint within a broader historical and socio-political context, emphasizing that the grievances raised were not recent or isolated, but rather reflective of longstanding patterns of marginalization. He testified, in clear and unequivocal terms, that:

15 *“We do not have a place we call a homeland... we are marginalized and not represented politically... our people do not get jobs and promotions despite qualifications.”*

This statement, in the view of the Commission, was not merely descriptive but deeply illustrative of the structural nature of the complaint. It encapsulates the intersection of territorial dispossession, political exclusion, and economic marginalization.

- 20 The witness proceeded to elaborate on specific areas in which the Nubian Community experiences disadvantage.

First, on the issue of land and displacement, the witness testified that members of the Nubian Community were displaced during periods of instability, particularly during exile, and upon their return, found that their land had been taken over by public
25 authorities without compensation. He stated that although efforts had been made to seek repossession, these efforts had not yielded any meaningful results. This testimony was consistent, detailed, and unshaken under scrutiny.

Secondly, the witness highlighted systemic exclusion from governance structures, noting that Nubians are not appointed to statutory bodies such as the City Service
30 Commission, Land Boards, or Contracts Committees. He emphasized that this exclusion persists despite the presence of qualified individuals within the community.

5 The absence of representation, he argued, effectively denies the Nubian Community a voice in decisions that directly affect their lives.

Thirdly, on employment and economic participation, the witness testified that Nubians face barriers both in recruitment and promotion. He stated that even where individuals meet the required qualifications, they are frequently overlooked. This assertion was not
10 contradicted by any documentary evidence from the Respondents and was, in fact, indirectly corroborated by admissions from Respondents' witnesses.

The witness drew the Commission's attention to discrimination in access to public services, particularly in health facilities. He testified that Nubians are sometimes ignored or treated unfavourably when seeking medical services, a claim that speaks to
15 issues of both perception and systemic bias.

On the issue of access to justice, the witness testified that Nubian individuals are compelled to participate in court proceedings conducted in languages they do not understand, namely Lugbara and Kiswahili. He emphasized that this creates confusion, undermines their ability to follow proceedings, and ultimately compromises their right
20 to a fair hearing.

Additionally, the Nubians raised concerns regarding the process of acquiring passports and travel documents from the *Directorate of Citizenship and Immigration Control*. They testified that members of the Nubian Community encounter significant communication barriers during passport interviews because the officers conducting the
25 interviews are unfamiliar with the Nubian language and, in many instances, unable to communicate effectively with Nubian applicants. They explained that this language disconnect creates fear, confusion, and misunderstanding during the interview process, thereby placing Nubian applicants at a disadvantage when attempting to access citizenship and immigration services. He further stated that the absence of interpreters
30 or officers conversant with the Nubian language results in many applicants struggling to express themselves adequately, despite possessing legitimate documentation and entitlement to the services sought. According to the witness, this has created a

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5 perception within the community that Nubians are subjected to unfair treatment and indirect exclusion in the enjoyment of citizenship-related services.

The witness addressed education and cultural identity, noting that Nubian children are taught in Lugbara and English, with no provision for instruction in the Nubian language. This, he argued, contributes to the erosion of Nubian culture and identity over time.

10 Finally, the witness set out the prayers sought by the community, which included recognition of their cultural institution, allocation of a homeland, inclusion in governance structures, equal access to employment opportunities, and provision of language interpreters.

The Commission observed that the Complainants' evidence was coherent, consistent, and grounded in lived experience. It was not speculative, nor was it exaggerated. Importantly, much of this evidence remained unchallenged or insufficiently rebutted by the Respondents.

Evidence of the Respondents

The Commission now turns to the evidence presented by the Respondents, which, in several respects, proved to be not only responsive but also inadvertently corroborative of the Complainants' claims.

(a) Evidence from the Education Sector

A Senior Inspector of Schools testified on behalf of the education authorities. His testimony was particularly revealing.

25 When asked about the Nubian Community, the witness stated that he understood Nubians to be a religious group rather than an ethnic community. This admission is of profound significance. It demonstrates a fundamental misunderstanding at the institutional level regarding the identity of the Nubian Community.

Such a misconception is not merely semantic. It has direct implications for policy formulation and implementation. If a community is not recognized as an ethnic group,

5 it is unlikely to be considered in matters relating to cultural rights, language policy, or affirmative action.

The witness further testified that the language of instruction in schools within Arua City is limited to Lugbara and English, and that no measures have been taken to incorporate other languages, including Nubian. When questioned about affirmative action, the
10 witness candidly admitted that no such measures exist to cater for ethnic minorities.

While the witness suggested that greater awareness and inclusive policies could be beneficial, the absence of existing measures underscores the systemic neglect of minority communities within the education sector.

(b) Evidence from Arua City Administration

15 The Assistant Deputy Town Clerk provided testimony regarding governance and administrative structures within Arua City.

Notably, the witness acknowledged that appointments to the City Service Commission are political in nature and not strictly based on merit. He went further to state that, in his view, the process is “*not fair*.”

20 This admission is highly probative. It confirms that the processes governing appointments are not guided by objective or equitable criteria, thereby creating an environment in which minority communities are vulnerable to exclusion.

The witness also confirmed that: There is no specific affirmative action policy targeting the Nubian Community; The city has not taken deliberate steps to ensure their inclusion
25 and Representation of minorities is not systematically considered.

When questioned about the recognition of the Nubian cultural institution, the witness stated that no formal request had been submitted, but did not provide evidence of any proactive efforts by the authorities to engage or facilitate such recognition.

(c) Evidence from the Health Sector

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- 5 The Commission also heard testimony from a senior health official responsible for overseeing health facilities within the city.

The witness confirmed that: There are no interpreters for the Nubian language in health facilities, there are no safeguards in place for patients who do not understand English or Kiswahili, there are no posters or informational materials in Nubian language, no
10 affirmative measures have been implemented to address these gaps.

When asked about allegations of discrimination, the witness stated that he had not personally encountered such incidents. However, the Commission notes that the absence of personal knowledge does not negate the existence of systemic barriers, particularly where institutional safeguards are entirely lacking.

- 15 Importantly, the witness acknowledged that Staff could be trained in the Nubian language and that recruitment of Nubian-speaking personnel would improve service delivery.

These concessions reinforce the conclusion that the current system is not inclusive.

(d) Evidence from the City Service Commission

- 20 The Chairperson of the City Service Commission provided testimony regarding recruitment and promotion processes.

The witness admitted that he could not distinguish between Nubians and Muslims, further illustrating the widespread misunderstanding of Nubian identity.

- When questioned on affirmative action, the witness defined it narrowly as relating to
25 gender and disability, and acknowledged that he had not considered its application to ethnic minorities.

This evidence demonstrates that there is a lack of conceptual clarity regarding affirmative action, ethnic minorities are not recognized as beneficiaries of such measures and recruitment systems operate without sensitivity to minority inclusion.

5 The Commission finds that the evidence presented by the Respondents, far from displacing the Complainants' case, substantially reinforces it.

There emerges from the record a consistent and compelling narrative. A community whose identity is misunderstood. A system that does not recognize its existence in policy or practice. Institutions that operate without mechanisms for inclusion and a
10 governance structure that, whether by design or omission, perpetuates exclusion.

ANALYSIS

Recognition of Nubians as a Minority

At the heart of this matter lies a foundational question. Whether the Nubian Community constitutes a distinct ethnic minority deserving of constitutional protection. This is not
15 merely a question of classification, but one that goes to the core of identity, dignity, and belonging within the Ugandan state.

From the evidence adduced before this Tribunal, both documentary and oral, there is no ambiguity that the Nubian Community possesses all the defining characteristics of an ethnic group. They are historically traceable within Uganda's socio-political landscape;
20 they maintain a unique cultural identity; they possess a distinct linguistic heritage; and they have established traditional governance structures, including leadership under a Sultan and organized community systems. Furthermore, the **1995 Constitution of the Republic of Uganda** recognizes the Nubians under the *third schedule* as an indigenous community.

25 Indeed, the testimony of the Complainants' witness who appeared as the **Prime Minister** of the Nubian Community clearly demonstrated a structured and cohesive community with identifiable leadership, shared history, and collective aspirations. This evidence was neither rebutted nor meaningfully challenged by the Respondents.

What is particularly striking, however, is not the absence of evidence of Nubian identity,
30 but rather the pervasive institutional failure to recognize it. The Respondents' own witnesses revealed a troubling misconception: that Nubians are not an ethnic group but

5 merely adherents of a religion. This conflation of ethnicity with religion is not only factually incorrect but constitutionally dangerous. It erases identity and renders invisible a community that is otherwise entitled to protection under **Article 36 of the Constitution**.

10 The Commission finds that such failure of recognition amounts to what may properly be termed a constructive denial of identity. In constitutional jurisprudence, identity is not a privilege granted by the state; it is an inherent attribute of a people. Where the state, whether through action or omission, refuses to acknowledge that identity, it effectively strips that group of the protections that flow from recognition.

15 This position is reinforced by international human rights standards. In the case of *Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) / Kenya - 276/03 (The Endorois case)*, the African Commission emphasized that the recognition of minority communities is a prerequisite to the enjoyment of their rights. Without recognition, rights become illusory.

20 Accordingly, this Tribunal finds that the continued failure to formally recognize the Nubian Community as a distinct ethnic group constitutes a violation of **Article 36** (rights of minorities) and undermines the broader constitutional commitment to equality and inclusion.

Systemic Discrimination

25 The Commission now turns to the nature of discrimination alleged and whether such discrimination is established on the evidence.

30 Discrimination, in its most overt form, is easily identifiable. It manifests through explicit exclusion or differential treatment. However, the more insidious form is systemic or structural discrimination, which operates through institutional practices, assumptions, and omissions that, while appearing neutral, disproportionately disadvantage a particular group.

5 The evidence before this Tribunal demonstrates that the discrimination experienced by the Nubian Community is not isolated or accidental. Rather, it is deeply embedded within institutional frameworks.

First, there is the institutional ignorance revealed by Respondents' witnesses. The inability of public officials including those in education and governance to distinguish
10 Nubians as an ethnic group reflects a systemic failure of awareness. This ignorance is not benign; it directly informs decision-making processes that exclude Nubians from consideration in policy, employment, and service delivery.

Second, the absence of representation across key governance structures is both stark and persistent. The evidence shows that Nubians are not appointed to statutory bodies
15 such as the City Service Commission, Land Boards, and other decision-making entities. This exclusion cannot be explained by coincidence or lack of qualification, particularly in light of unchallenged testimony that qualified Nubians exist but are overlooked.

Third, there is exclusion from employment and promotion structures. The Complainants' evidence that Nubians are denied opportunities despite qualifications
20 was not effectively rebutted. On the contrary, the Respondents' admission that appointment processes are political and "not fair" lends credence to the claim that merit is not the determining factor.

Fourth, there is a complete absence of targeted policy inclusion. No affirmative action measures have been designed or implemented to address the specific disadvantages
25 faced by the Nubian Community.

Taken together, these factors establish a pattern of indirect discrimination where systems that appear neutral operate in a manner that disproportionately disadvantages a particular ethnic group.

This is squarely prohibited under **Article 21** of the Constitution, which guarantees
30 equality not only in form but in substance.

Political and Administrative Exclusion

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5 A democratic system derives its legitimacy from inclusivity. Participation in governance is not merely a political privilege; it is a constitutional right enshrined under **Article 38**. To the contrary, the evidence before this Tribunal reveals a troubling reality. The Nubian Community is effectively excluded from political and administrative structures within Arua City.

10 The Respondents' own witness, an official within the city administration, candidly admitted that appointments to key bodies are political and not merit-based, and further conceded that the process is "*not fair*." This admission is significant. It confirms that the structures responsible for public administration are not governed by objective, transparent, or inclusive criteria.

15 In such a system, minorities particularly those lacking political dominance are systematically disadvantaged. The absence of Nubians in positions of authority is therefore not accidental; it is a predictable outcome of a system that prioritizes political considerations over equity.

The Commission finds that this amounts to structural exclusion, which undermines
20 democratic governance and violates the constitutional guarantee of participation.

Language and Access to Justice

Access to justice is a cornerstone of the rule of law. However, access must be practical and effective, not merely theoretical.

25 The evidence shows that Nubian individuals are compelled to engage with courts and health facilities in languages they do not understand. There are no interpreters, no safeguards, and no institutional mechanisms to bridge this gap.

This creates a situation where Nubians are physically present within systems of justice and healthcare, but functionally excluded from meaningful participation.

30 The Commission further observes that these language barriers extend beyond courts and health facilities into the sphere of citizenship and immigration administration. Evidence was adduced that Nubian applicants seeking passports from the Directorate of

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5 Citizenship and Immigration Control are frequently interviewed by officers who neither understand nor speak the Nubian language, and who possess little or no familiarity with the community's linguistic and cultural background. The Commission considers this particularly concerning given that passport acquisition is intrinsically linked to the enjoyment of citizenship rights, freedom of movement, identification, employment
10 opportunities, and participation in public life. Where an applicant is unable to effectively communicate during official interviews due to the absence of interpretation services or culturally responsive administrative mechanisms, the process ceases to be equally accessible. Although such exclusion may not be expressly intended, its effect is discriminatory in substance because it disproportionately disadvantages members of a
15 particular ethnic minority. The Commission therefore finds that the failure to provide reasonable linguistic accommodation within immigration processes perpetuates systemic marginalization and undermines the constitutional principles of equality, dignity, and fair administrative treatment guaranteed under Articles 21 and 42 of the Constitution.

20 The Commission adopts the reasoning in *Social and Economic Rights Action Centre (SERAC) and Centre for Economic and Social Rights (CESR) / Nigeria - 155/96*, where it was held that rights must be accessible in practice. A hearing conducted in a language not understood by a party cannot, in any meaningful sense, be said to be fair.

Accordingly, the absence of interpretation services constitutes a violation of: The right
25 to fair hearing (Article 28); The right to equality (Article 21); and the broader principles of dignity and access to justice.

Land and Historical Injustice

The issue of land is particularly significant, as it intersects with identity, livelihood, and historical justice. The evidence demonstrates that members of the Nubian Community
30 were displaced during periods of instability and, upon return, were unable to reclaim their land. Efforts to seek repossession have been unsuccessful, and no meaningful compensation mechanisms have been established. This creates a condition of historical injustice that persists into the present.

5 The Commission is guided by the **Endorois decision** (*Centre for Minority Rights Development (Kenya) and Minority Rights Group International on Behalf of Endorois Welfare Council v. Kenya*), which recognized that land is not merely an economic asset but a cultural and spiritual anchor. Deprivation of land, therefore, constitutes a violation that extends beyond property rights into the realm of identity and
10 dignity.

The continued failure to address these grievances perpetuates marginalization and entrenches inequality.

Education and Cultural Assimilation

Education plays a critical role in shaping identity and transmitting culture across
15 generations. The evidence shows that Nubian children are educated exclusively in Lugbara and English, with no provision for instruction in the Nubian language. This is despite national policy encouraging the use of local languages in early education.

The effect of this policy is not neutral. It systematically excludes Nubian language and culture from formal education, thereby accelerating cultural erosion.

20 The Commission finds that this amounts to cultural assimilation by omission a process whereby a minority culture is gradually displaced not through force, but through neglect. This accordingly violates **Article 37** of the **Constitution**, which guarantees the right of every person to enjoy, practice, and promote their culture.

When the evidence is viewed holistically, a consistent pattern emerges. The Nubian
25 Community is not facing isolated acts of discrimination, but rather a network of interlocking disadvantages legal, institutional, social, and cultural.

These disadvantages reinforce each other, creating a cycle of marginalization that cannot be addressed through piecemeal interventions. What is required, therefore, is not only recognition of the violations, but a deliberate and sustained effort to dismantle the
30 structures that sustain them.

5 **DETERMINATION**

The Commission finds that:

1. The Nubian Community is a marginalized ethnic minority.
2. The Respondents have engaged in systemic discrimination.
3. The rights of the Nubian Community under the Constitution and international
10 law have been violated.

ORDERS and DIRECTIVES.

1. Enforcement of Constitutional Recognition and Cultural Institutionalization.

The Commission takes judicial notice that the Nubian Community is already recognized
15 as an indigenous ethnic group under the **Third Schedule (No. 52) of the Constitution of the Republic of Uganda, 1995.**

Notwithstanding this constitutional recognition, the evidence on record demonstrates a persistent institutional failure to acknowledge, operationalize, and give practical effect to this status across multiple sectors of governance.

20 Accordingly, the Commission hereby directs that:

The Government of Uganda, through the **Ministry of Gender, Labour and Social Development** and all **relevant agencies**, shall take immediate and deliberate steps to operationalize the constitutional recognition of the Nubian Community, including but not limited to:

- 25 A) Formally affirming the Nubian Community's status in all government records, policies, and administrative frameworks;
- B) Ensuring that all public bodies, including local governments, recognize and treat the Nubian Community as a distinct ethnic group for purposes of policy planning, service delivery, and affirmative action.



5 For the avoidance of doubt, this directive does not create new recognition, but rather compels the State to give full legal and practical effect to an already existing constitutional status.

These measures shall be undertaken in a consultative, transparent, and inclusive manner, and shall be substantially implemented within **twelve (12) months** from the
10 date of this decision.

2. Establishment of a Land Justice and Restitution Framework.

The Government through the **Ministry of Lands, Housing and Urban Development** shall, **within six (6) months**, constitute a multi-sectoral taskforce comprising relevant ministries and representatives of the Nubian Community to: Investigate claims of
15 historical land dispossession; Develop appropriate mechanisms for restitution, compensation, or resettlement and to propose policy and legislative interventions to address historical injustices affecting the community.

The taskforce shall submit its findings and recommendations to the Commission and relevant authorities within a reasonable timeframe.

3. Employment and Governance Reform Measures

Arua City Local Government shall take immediate steps to ensure that its governance and employment structures reflect fairness, inclusivity, and equal opportunity, including: Ensuring equitable representation of ethnic minorities, including Nubians, in statutory bodies such as the City Service Commission, Land Boards, and Committees;
25 Adopting and publishing transparent, merit-based recruitment and appointment criteria; and implementing internal safeguards to prevent discrimination in hiring and promotion.

A compliance report detailing the measures undertaken shall be submitted to the Commission within **ninety (90) days**.

4. Compliance by the National Identification and Registration Authority (NIRA)

5 The National Identification and Registration Authority (**NIRA**) shall take immediate and targeted steps to eliminate any barriers administrative or otherwise that result in discriminatory access to National Identification Cards for members of the Nubian Community.

This shall include: Conducting targeted outreach and registration exercises in Nubian-populated areas, sensitizing staff to prevent ethnic profiling or bias as well as
10 Establishing clear, accessible procedures for applicants.

5. Language Inclusion and Non-Discriminatory access to Citizenship and immigration Services.

The Directorate of Citizenship and Immigration Control is further directed to take
15 immediate administrative measures to eliminate language-based barriers affecting members of the Nubian Community in the processing of passports and other immigration services. Such measures shall include the deployment, recruitment, or facilitation of officers and interpreters conversant with the Nubian language in areas with significant Nubian populations; the sensitization and training of immigration
20 officers on the cultural and linguistic identity of the Nubian Community; and the establishment of fair and accessible communication mechanisms during interview processes.

The Directorate shall further ensure that no applicant is disadvantaged in the enjoyment of citizenship and immigration services on account of language limitations or ethnic
25 identity.

A compliance report outlining the steps undertaken pursuant to this directive shall be submitted to the Commission within twelve (12) months from the date of this decision.

6. Access to Justice and Health Services (Language Inclusion Measures)

The Judiciary and the Ministry of Health shall, as a matter of urgency, implement
30 measures to ensure meaningful access to services for Nubian-speaking persons, including: Deployment and/or recruitment of qualified Nubian language interpreters in

5 courts of law and public health facilities; Training of existing staff in basic language and cultural competence; Development of informational materials in the Nubian language where feasible.

These measures shall be progressively implemented, with initial steps taken within twelve (12) months.

10 **7. Education Policy and Cultural Inclusion**

The Ministry of Education and Sports shall take steps to promote inclusive and culturally responsive education, including: Introducing and supporting the use of the Nubian language in early childhood and primary education, in accordance with national policy; Developing curriculum and instructional support that reflects the cultural
15 identity of the Nubian Community as well as Sensitizing education stakeholders on minority inclusion.

8. Development of a National Affirmative Action Framework for Ethnic Minorities

The Government of Uganda shall, through relevant ministries and agencies, develop
20 and operationalize a comprehensive affirmative action framework that explicitly recognizes ethnic minorities as beneficiaries, alongside other vulnerable groups.

Such a framework shall aim to: Address historical and structural disadvantages; Promote equitable participation in public life; Institutionalize inclusion across sectors.

9. Monitoring, Compliance, and Follow-Up

25 The Commission shall retain supervisory jurisdiction over the implementation of these directives. All Respondents and relevant Government agencies are hereby required to: Submit periodic compliance reports as may be directed by the Commission and to Cooperate fully with any follow-up inquiries or monitoring processes.

Right of Appeal.

- 5 Any party dissatisfied with this decision has a right to appeal within 30 days from the date of this decision as per Section 29(1) of the Equal Opportunities Act, Cap 7.

Given under my hand and seal of the Equal Opportunities Commission this
.....^{15th} day of^{May}....., 2026

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Hon, Tusiime Denise

Presiding Member

18/05/2026