

5

THE REPUBLIC OF UGANDA
THE EQUAL OPPORTUNITIES COMMISSION TRIBUNAL
HOLDEN AT KAMPALA
COMPLAINT NO: EOC/GIF/CR/006/2024

10

GENERAL INQUIRIES FILE.....COMPLAINANT
VERSUS
ZOMBO DISTRICT AND ORS.....RESPONDENTS

BEFORE: HON DENISE TUSIIME

15

JUDGEMENT OF THE COMMISSION

INTRODUCTION

This Judgement arises from a consolidated public inquiry conducted by the **Equal Opportunities Commission** (hereinafter “the Commission”) into allegations of systemic discrimination, marginalization, and denial of equal opportunities affecting the Kebhu and Lendu (also referred to as Ndrukpa) communities in Zombo District. The inquiry was conducted pursuant to **Article 32(3) of the Constitution of the Republic of Uganda, 1995**, as read together with **Sections 14 and 15** of the *Equal Opportunities Commission Act, Cap 7*.

25

The proceedings were held at **Alangi Sub-County in Zombo District**, with the express objective of bringing justice closer to affected communities and enabling direct participation of marginalized persons in the adjudicative process. The Commission considered both oral testimony and documentary evidence as contained in the official Record of Proceedings

30

BACKGROUND AND CONTEXT

The complaints before this Tribunal arise from a shared historical and structural grievance by two distinct but similarly situated ethnic minority communities the Kebhu and the Lendu.

5 Both communities allege that they have been subjected to longstanding patterns of exclusion, perpetuated through administrative systems, cultural domination, and institutional neglect, particularly within structures influenced by the Alur Kingdom and local government systems.

The allegations are not limited to isolated acts of discrimination but extend to:
10 Governance and representation; Access to public services; Cultural suppression; Land dispossession; Educational exclusion; Religious marginalization.

The Commission notes that these claims, taken together, raise fundamental questions regarding the meaning of equality in a pluralistic constitutional order.

15 **ISSUES FOR DETERMINATION**

The Commission frames the following issues:

1. Whether the Kebhu and Lendu communities are subjected to systemic discrimination.
2. Whether their constitutional rights to equality, culture, and participation have
20 been violated.
3. Whether there exists institutional and structural exclusion in governance and service delivery.
4. Whether cultural, linguistic, and religious rights have been infringed.
5. What remedies are appropriate in the circumstances.

25 **SUMMARY OF EVIDENCE**

Evidence of the Kebhu Community

The Commission heard testimony from multiple Kebhu witnesses, whose accounts were consistent, mutually reinforcing, and reflective of lived realities. **Mr. Mengu Celestine**, aged 76, testified that: There are approximately 54,000 Kebhu in Uganda;
30 None of the schools in Kebhu-dominated areas teach in the Kebhu language; The community is not allowed to freely assemble without interference; There is zero representation on statutory bodies such as the District Service Commission and Land

5 Board; Cultural expression is suppressed, including language use in churches and public spaces.

He further testified to historical land grievances, noting that land belonging to the Kebhu was appropriated in the 1940s for the establishment of the Lendu Forest.

A second witness, the **Prime Minister of the Kebhu Community Mr. Alex**
10 **Oketcha**, reinforced these claims, emphasizing: Persistent undermining of political participation; Exclusion from government programs such as PDM; Lack of recognition of the Kebhu King and cultural institution; Interference with community gatherings by external authorities.

A third witness, a retired civil servant **Ms. Rose Lily Chandira**, provided further
15 evidence of: Systemic exclusion from employment; Cultural suppression in religious institutions; Social intimidation and harassment.

Evidence of the Lendu (Ndrukpa) Community.

The Lendu witnesses presented a parallel narrative of marginalization. **Mr. Ndama**
Patrick testified that: There is no Lendu representation on the District Service
20 Commission; No schools in Lendu-dominated areas teach in the Lendu language; The community faces restricted participation in churches, particularly within Catholic institutions; There are no affirmative action measures targeting their community.

The witness further raised issues of: Land dispossession (Lendu forest); Lack of
infrastructure and basic services; Social stigmatization and exclusion.

25

Evidence of the Respondents.

The Respondents' testimony, while seeking to demonstrate administrative neutrality, revealed critical structural gaps. Key admissions include: No Kebhu or Lendu sub-county chiefs in the district; Historically, no representation on statutory bodies;
30 Recruitment processes lacking affirmative action; Absence of language development programs; Minimal inclusion in public service structures.

- 5 While some efforts, such as proposed district language boards, were mentioned, these remain largely aspirational rather than implemented.

ANALYSIS.

Systemic and Structural Discrimination

10 The question before the Commission is not merely whether acts of discrimination occurred, but whether the totality of the evidence reveals a pattern of systemic exclusion that is, discrimination embedded within the very structure and operation of public institutions.

15 From the record, the Commission observes that the exclusion of the Kebhu and Lendu communities' manifests across multiple, interlocking domains: governance, employment, education, cultural expression, and access to public services. This convergence is neither incidental nor coincidental. Rather, it reveals what comparative jurisprudence has termed "structural inequality" a condition in which institutional arrangements, though facially neutral, produce and reproduce disadvantage for specific groups.

20 The African human rights system has long rejected a narrow understanding of discrimination. In *Social and Economic Rights Action Centre (SERAC) and Centre for Economic and Social Rights (CESR) / Nigeria - 155/96*, the African Commission found that a State may be held responsible not only for direct acts of discrimination but also for failure to prevent systemic conditions that marginalize people.

25 This principle is of particular relevance in the present case. The Respondents have not demonstrated overt policies excluding the Kebhu and Lendu. However, what is evident is a persistent absence of inclusion, which in constitutional law is equally culpable.

30 Scholarly authority reinforces this position. The African Charter framework recognizes that equality must be understood in substantive terms requiring not only formal neutrality but active dismantling of disadvantage.

5 Further, **Article 2** and **Article 3** of the **African Charter** impose a duty on States to guarantee equal protection and non-discrimination, while **Article 19** explicitly prohibits domination of one people by another.

The Commission therefore finds that: The absence of Kebhu and Lendu representation in statutory bodies; The lack of targeted policy inclusion; and the systemic invisibility
10 of these communities in administrative frameworks collectively amount to indirect and systemic discrimination, contrary to **Article 21** of the Constitution and corresponding provisions of international law.

This is discrimination not by explicit exclusion, but by institutional omission a form no less injurious.

15 **Cultural Suppression and Identity Erosion**

The Commission now turns to the question of cultural rights, which lie at the very core of human dignity and identity. The evidence reveals that the Kebhu and Lendu communities are: Prevented from using their languages in schools; Restricted from expressing their languages in churches; Excluded from cultural expression in public
20 life.

This raises a fundamental constitutional issue: whether the State has merely failed to promote culture, or whether it has actively enabled conditions that suppress it.

The Commission adopts a purposive interpretation of **Article 37** of the **Constitution**, which guarantees every person the right to enjoy, practice, and promote their culture.
25 This right must be understood not as passive tolerance, but as requiring conditions that make cultural expression possible and meaningful.

The African Commission on Human and Peoples Rights in the *Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) / Kenya - 276/03 (The Endorois case)* affirmed that
30 culture is not an abstract concept, but a living system tied to language, land, religion,

5 and social institutions. Where these elements are suppressed, the violation is not merely cultural it is existential.

The denial of language use in education is particularly grave. Language is the primary vehicle through which culture is transmitted across generations. Its exclusion from formal education systems results in what scholars have termed “*linguistic erasure*”, a precursor to cultural extinction.

Similarly, restrictions within religious institutions spaces that are central to communal identity amount to cultural displacement within one’s own social environment.

The Commission therefore finds that: The cumulative effect of these restrictions constitutes cultural suppression. This suppression is not incidental but systemic. It results in progressive erosion of identity. Such conduct violates not only **Article 37**, but also international obligations under *The International Covenant on Economic, Social and Cultural Rights (ICESCR)*, which requires States to respect and protect cultural participation.

Political and Administrative Exclusion

20 The Commission considers next the question of participation in governance. Democracy, in its constitutional sense, is not merely about periodic elections. It is about inclusive participation in decision-making structures that shape public life.

The evidence reveals that: Kebhu and Lendu communities have no meaningful representation in statutory bodies; Appointments are dominated by a single ethnic group; Recruitment processes lack safeguards for inclusivity.

This raises the issue of whether the exclusion is incidental or structural. The Respondents’ own admissions particularly that appointments are political and lack fairness confirm that the system is not designed to ensure equitable representation.

Article 38 of the Constitution guarantees every Ugandan the right to participate in the affairs of government. This right must be interpreted in light of modern constitutional theory, which recognizes that participation must be effective, not merely theoretical.

TS

5 **The Endorois decision** is again instructive. **The African Commission on Human and Peoples Rights** held that exclusion of a community from decisions affecting them violates the right to development, which includes “active, free and meaningful participation.”

10 Applying that reasoning, the Commission finds that: The Kebhu and Lendu are excluded from meaningful participation; Their absence from governance structures is systemic. This exclusion perpetuates further marginalization.

Accordingly, this constitutes a violation of **Article 38**, read together with **Articles 21 and 32**.

Land and Historical Injustice

15 The issue for determination is no longer limited to whether the Kebhu and Lendu communities suffered historical land dispossession. Rather, the question is broader and more constitutionally profound: Whether the gazettelement of the Alur Kingdom over territories predominantly inhabited by the Kebhu and Lendu, coupled with restrictions on their cultural and social autonomy, constitutes an ongoing violation of
20 their constitutional and human rights.

The Commission is guided by both domestic and international legal principles. At the international level, the **African Commission on Human and Peoples Rights** in **SERAC v Nigeria** established that: The State has an obligation not only to refrain from interference, but to prevent third-party domination and to ensure that
25 communities are not dispossessed of their resources and autonomy.

Similarly, in *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 held that Land is inseparable from identity, culture, and survival and that State actions that place one community under the authority or
30 control of another may amount to cultural domination and denial of self-determination.

5 Crucially, **Article 19** of the **African Charter** provides that: “*All peoples shall be equal... nothing shall justify the domination of a people by another.*”

The evidence before the Commission, reveals a far more complex and troubling reality than mere historical dispossession. The Government’s decision to gazette the Alur Kingdom to cover Nebbi, Zombo, and Pakwach districts, including areas
10 predominantly occupied by the Kebhu, has had profound consequences.

While gazettelement of cultural institutions is, in principle, lawful, its application in this instance has produced exclusionary and unequal outcomes, namely Rendering the Kebhu effectively stateless within their own ancestral lands, Channeling all government communication and programs through the Alur Kingdom and denying the
15 Kebhu direct access to state structures and benefits.

This creates a situation where the Kebhu are not only dispossessed of land in the traditional sense, but are also dispossessed of institutional identity and administrative recognition.

Even more concerning is the evidence that: **The Kebhu are not permitted to hold
20 meetings, clan gatherings, or cultural functions without permission from the Alur Kingdom; and that threatening letters have been issued to prevent independent cultural activities.** This transforms the issue from one of land administration into one of control over social existence itself.

Land, in this context, is not merely territory it is the platform upon which cultural life
25 is organized. To condition access to that platform on the approval of another cultural authority is to Undermine autonomy, Suppress identity and to subordinate one people to another. This directly implicates **Article 29** (freedom of association), **Article 37** (cultural rights) and **Article 36** (minority rights)

The Commission must emphasize that what is revealed here is not simply exclusion. It
30 is structured domination.

TB

5 The Kebhu community Does not control the land it inhabits, does not control the cultural authority governing that land, cannot freely assemble on that land, cannot access government services except through another ethnic structure. This aligns precisely with what **Article 19** of the **African Charter** prohibits, The domination of one people by another.

10 The gazettelement of the Alur Kingdom, as applied to Kebhu-inhabited areas, has resulted in institutional and cultural subordination of the Kebhu community;

The Commission therefore finds that the gazettelement, as implemented, has produced a system in which: One cultural institution exercises de facto control over another community. The affected community is denied equal standing and autonomy.

15 The Respondents may argue that gazettelement is a completed administrative act. However, the Commission rejects this characterization. The violation is continuing because: The effects are ongoing; The restrictions persist and the inequality remains embedded in current governance structures.

As established in **SERAC and Endorois cases**, a violation persists where Its
20 consequences continue to affect the community and where **no** remedial measures have been undertaken.

Failure of Affirmative Action

Finally, the Commission considers the State's obligation under **Article 32** of the Constitution, which mandates affirmative action in favor of marginalized groups.

25 The Respondents' evidence confirms that: No affirmative action measures exist for Kebhu and Lendu communities; Existing frameworks do not consider ethnic minorities; Inclusion is left to general administrative discretion. This, in the view of the Commission, reflects a misunderstanding of the nature of affirmative action. Affirmative action is not charity. It is a constitutional tool for correcting structural
30 inequality.

TD

5 International human rights law is clear on this point. The obligation to ensure equality requires States not only to refrain from discrimination but to take positive measures to redress disadvantage.

The failure to adopt such measures, particularly in the face of clear evidence of marginalization, constitutes: A breach of Article 32, A reinforcement of systemic
10 discrimination and perpetuation of historical injustice.

What emerges from this analysis is not a series of isolated violations, but a coherent system of exclusion.

The Kebhu and Lendu communities are not merely disadvantaged, they are positioned at the margins of institutional visibility, where: Their identity is unrecognized; Their
15 participation is minimal; Their culture is suppressed and Their rights are inadequately protected.

The Constitution does not permit such a condition to persist.

Equality, as understood in modern constitutional jurisprudence, is not achieved through neutrality alone. It requires active, deliberate, and sustained intervention to
20 dismantle structures of disadvantage.

DETERMINATION

The Commission finds that:

1. The Kebhu and Lendu communities are marginalized ethnic minorities.
2. The Respondents have engaged in systemic discrimination.
- 25 3. Constitutional rights to equality, culture, and participation have been violated.

ORDERS

1. Operationalization of Minority Recognition. Government through the **Ministry of Gender Labour and Social Development** shall take immediate steps to operationalize the constitutional status of the Kebhu and Lendu communities
30 across all administrative and policy frameworks.

TD

5 2. The requirement that Kebhu community members seek permission from the Alur Kingdom to conduct social and cultural activities constitutes a violation of freedom of association and cultural autonomy; The cumulative effect of these actions amounts to ongoing domination, contrary to: **Articles 21, 29, 36, and 37** of the **Constitution** and **Article 19** of the African Charter and a **Permanent**
10 **Injunction is therefore issued restraining the Alur Kingdom from continuing with the above actions.**

3. Governance and Representation Reform. Zombo District local government shall ensure the inclusion of Kebhu and Lendu in statutory bodies; Transparent recruitment processes as well as Representation in decision-making structures.

15 **4. Education and Language Policy.** The Ministry of Education shall Introduce Kebhu and Lendu language instruction and shall support development of teaching materials.


5. Land Justice Mechanism. Government through the Ministry of Lands, Housing and Urban Development shall establish a framework to address:
20 Historical land dispossession, Restitution or compensation.

6. Affirmative Action Policy. A targeted affirmative action framework for ethnic minorities shall be developed and implemented.

7. Monitoring and Compliance. The Commission shall retain supervisory jurisdiction and review compliance within **six (6) months.**

25 **8. Right of Appeal.** Any party dissatisfied with this decision has a right to appeal within 30 days from the date of this decision under **Section 29(1)** of the **Equal Opportunities Act, Cap 7.**

Given under our hand and seal of the Equal Opportunities Commission this
.....^{18th} day of ^{May}....., 2026

30 
Hon. Tusiime Denise.
Presiding Member

5 18/05/2026