



THE REPUBLIC OF UGANDA

EQUAL OPPORTUNITIES COMMISSION (EOC)

REPORT ON THE PRE-TRIBUNAL VISIT/DISTRICT CONSULTATIVE MEETING IN MASAKA

**MASAKA DISTRICT LOCAL GOVERNMENT – DISTRICT
SERVICE COMMISSION BOARD ROOM ON**

27TH FEBRUARY, 2015

***“Institutional Support towards Strengthening The Equal
Opportunities Commission to Implement Its Mandate”***

FEBRUARY 2015



Implemented by
giz

TABLE OF CONTENTS

Acronyms and Abbreviations	3
GENERAL INTRODUCTION	4
1.1 Introduction	4
1.2 Background.....	4
1.3 Objectives of the Meeting.....	5
1.4 Meeting Approach.....	6
2. MEETING PROCEEDINGS	6
2.1 Introduction	6
2.2 Meeting Commencement.....	6
2.3 General/Group teaching.....	6
2.4 ONE -TO - ONE SESSION	7
3. QUESTIONS	16
6.0 Closing Remarks	17
8.0 Conclusion	18
9.0 Recommendations:	18

Acronyms and Abbreviations

EOC Equal Opportunities Commission

DGF Democratic Governance Facility

GIZ Deutsche Gesellschaft für Internationale Zusammenarbeit

MDLG Masaka District Local Government

GENERAL INTRODUCTION

1.1 Introduction

The EOC with support from the Democratic Governance Facility (DGF) through Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) the implementing partner, is implementing a two (2) year project titled; *“Institutional Support Towards strengthening the Equal Opportunities Commission to Implement Its Mandate”*. Amongst the project programmes is funding the EOC Tribunal activities. The Equal Opportunities Commission organized a District Consultative / Pre-Tribunal meeting with Complainants in Masaka to prepare them for the Tribunal hearing. The meeting was held on Friday 27th February, 2015 at Masaka District Local Government – District Service Commission Board Room, Ssaza, Masaka. The meeting attracted nine (09) complainants, pursuing eight (8) complaints, and was presided over by four (4) EOC staff under the guidance of the EOC Chairperson, Mrs. Rita S. Matovu

1.2 Background

The Equal Opportunities Commission (EOC) is a body corporate established by the Equal Opportunities Commission Act, 2007, in accordance with Article 32 (3) of the Constitution of the Republic of Uganda. The EOC was set up to give effect to the State’s constitutional mandate to eliminate discrimination and inequalities against any individual or group of persons on the ground of sex, age, color, ethnic origin, tribe, birth, creed or religion, health status, social or economic standing, political opinion or disability, gender, age or any other reason created by history, tradition, or custom.

According to section 23 of the Equal Opportunities Act 2007, the EOC in the performance of its functions under the Act has powers to receive and determine complaints relating to discrimination, marginalization or any act which undermines or impairs equal opportunities.

Under the EOC's complaints handling procedures, it is a prerequisite that before a Tribunal session is held, there should be a pre-tribunal visit consult district and local authorities, assess the complaints lodged, meet, interview and sieve prospective witnesses, verify documents and prepare complainants for a tribunal hearing, inter alia. It is upon this background that the EOC organized the pre tribunal visit / district consultative meeting in Masaka District.

1.3 Objectives of the Meeting

The objectives of the meeting were:

- i. To expedite disposition of the complaints to enable the sieving of evidence and witnesses before the actual hearing, as this determine what is material and what is immaterial.
- ii. To facilitate settlement of the complaints by the parties where arbitration is advised.
- iii. To improve the quality of the tribunal hearing through adequate preparation of the parties, documents and witnesses.
- iv. To enable full disclosure, share the documents and disclose the witnesses the parties intend to rely on.
- v. To obtain facts and documents to avoid unnecessary proof.
- vi. To educate complainants about due tribunal procedures.

1.4 Meeting Approach

The meeting comprised of a general session with all the complainants where they were educated about the tribunal processes and what to expect, followed by a one to one analysis of files/complaints/records and witnesses.

2. MEETING PROCEEDINGS

2.1 Introduction

The delegation from the EOC first reported to the District Head Officials to notify them of their presence and also to seek for a convenient place where the meeting would be conducted.

The Deputy Chief Administrative Officer (DCAO) Mr. Fredrick Ssemwogerere (0772 502 914/0705 827 374) was met with, and a brief about EOC was given by Mr. Henry Mwebe, the EOC Assistant Commissioner, Legal Services & Investigations. He further gave the DCAO copies of the EOC Act and Regulations to enable him internalize the mandate and procedures of the Commission. After this meeting, he allocated the EOC team the Masaka District Service Commission Board Room for the meeting with complainants.

2.2 Meeting Commencement

The meeting started at 11:10am with self introductions.

2.3 General/Group teaching

The AC/LSI welcomed the complainants to the meeting. He thanked the complainants for attending the meeting and confirmed to them that the Commission is working tirelessly to have their complaints heard and determined. He explained that upon receipt of the complaints, individual files were opened and serialized, the respondents were addressed so that they get to

know the nature of complaints against them, some respondents had responded and most of the complainants were already under investigation.

He informed the participants that the purpose of the pre-tribunal visit was majorly to explain to them the tribunal processes and to prepare them for the forthcoming tribunal hearings.

In his presentation, he explained the following:

- The establishment of the EOC.
- EOC's background.
- EOC's composition.
- EOC's mandate, powers and functions.
- Procedures of lodging complaints.
- EOC's Tribunal procedures followed by the powers of the Tribunal
- Composition of the Tribunal.
- What is required when lodging a complaint and during Tribunal hearings.
- What the Commission can handle and what it cannot.

2.4 ONE -TO - ONE SESSION

This was to cater for the different complainants' interests, discuss individual file details, examine documents, evidence and witnesses.

This session was divided amongst the EOC Secretariat as below:

- | | | |
|---------------------------|---|---------------------------|
| a. Mr. Henry Mwebe | - | Assessment of Complaints |
| b. Ms. Asha Nakiganda | - | Assessment of complaints |
| c. Ms Jesca Kaahwa | _ | Secretary/ Taking Minutes |
| d. Mr. Musema Miraji (TC) | - | preparing files |

During the one-to-one meetings with the complainants, the following was done:

- (a) Discussion of the admissibility of the complaint vis a vis the EOC's mandate.
- (b) Examination of documents presented and advising the complainants to bring other documents relevant to their complaints.
- (c) Sieving and selecting witnesses.
- (d) Advising complainants on admissibility of presented evidence..

SUMMARY OF COMPLAINTS HANDLED AND NATURE OF ADVICE GIVEN.

S/NO.	PARTIES	ALLEGED VIOLATION	DISCUSSION WITH COMPLAINANT/ADVICE GIVEN.
1.	KASUMBA MOSES VS RAKAI DISTRICT LOCAL GOVERNMENT.	UNFAIR TERMINATION OF EMPLOYMENT, DEMOTION AND DENIAL OF TERMINAL BENEFITS.	-Complainant was unfairly terminated. -He claims his arrears amount to 7,440,000. -Claims was discriminated against because he is a moslem. -He has 3 witnesses. He was advised to prepare his witnesses and avail copies of all documents in support of his claim. This matter will be causelisted for the next tribunal hearing.
2.	SERUGO RICHARD VS	RIGHT TO ACCESS HIS	The complainant claims that he fathered a child

	SYLVIA.	CHILD	<p>with the respondent who disappeared with the child.</p> <p>-He does not know the names of the alleged woman who he claims he fathered a child with neither does he know the name of the child or their whereabouts.</p> <p>-He does not have any witnesses.</p> <p>-He also does not have any documents like the child health birth card which would have been very useful in obtaining the mother's names and the child's name.</p> <p>-He was advised to find out the details of the mother of the child and her whereabouts plus her contact address. He was also advised to get the details of the child and also obtain some documents concerning the child e.g the child</p>
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			health birth card from the hospital where the child was born.
3.	FLORENCE KARYAMARWAKI BUMARWOHA VS BAKULETERA LUBEGA	RIGHT TO OWNERSHIP OF LAND AND PROPERRTY.	<p>-The complainant's late husband bequeathed land to his five daughters in a will but the deceased son took over the land and evicted his mother/ the complainant and her daughters therefrom. He also destroyed their coffee, eucalyptus and sugar plantation.</p> <p>-she wants to recover her land so that the same can be subdivided amongst the 5 daughters to the deceased to whom it was bequeathed under his will.</p> <p>-she availed a copy of the will and has 3 witnesses. Their telephone contacts were also availed.</p> <p>She was advised that since all the necessary documents and information have been</p>

			<p>availed, then she should wait for the next tribunal hearing where her complaint will be heard and determined.</p>
4.	<p>LUGEMWA STEPHEN VS BUSULWA LAWRENCE</p>	<p>RIGHT TO OWNERSHIP OF LAND.</p>	<p>-He is claiming land that formerly belonged to his mother. The land/kibanja is approximately two and a half acres.</p> <p>-The Will by Edward Busulwa (grandfather) bequeathed the kibanja to Nalule Mary, his mother.</p> <p>- The custodian of the will, Kiwalabye Leonard, is now deceased.</p> <p>-Lugemwa has been forcefully using the kibanja since 2003.</p> <p>-Witnesses available are four siblings to the complainant, and the heir to Nalule Mary.</p> <p>The complainant was advised to make efforts</p>

			<p>to retrieve the will. In absence of the will, he was advised to prepare witnesses to prove that the land in question was bequeathed to his mother.</p> <p>This matter will be cauelisted for the next tribunal hearing.</p>
5.	<p>MAYANJA BEN SALONGO VS ATTORNEY GENERAL.</p>	<p>RIGHT TO EQUAL ACCESS OF GOVERNMENT SERVICES</p>	<p>The complainant alleges that there is no center for issuing driving permits within Masaka and the seven districts surrounding Masaka. As taxi drivers, they feel it is a violation of their rights to be required to come to Kampala to access driving permits and riders' licences. This takes them a lot of time and money.</p> <p>-He proposes that regional offices be opened to cater for upcountry districts.</p> <p>-He has 10 Witnesses i.e 5 boda boda riders and 5</p>

			<p>taxi drivers.</p> <p>-Advised that the Commission will investigate this matter, hear the 10 witnesses proposed, and if his allegation is found to be correct, then it will engage Government with a view of reviewing the contract with Face Technologies Ltd to provide for opening of regional offices to ease accessibility by boda boda riders and taxi drivers.</p>
6.	<p>KASUJJA KAGGWA & NAMUGGA ANNET</p> <p>VS</p> <p>NASITANZIYA NIKUZE & ORS.</p>	<p>RIGHT OF OWNERSHIP OF LAND.</p>	<p>-The complainants allege that their Kibanja was taken over by the respondents.</p> <p>-They want to recover their land/ Kibanja.</p> <p>-The complainants do not have any documentary evidence as all the land documents got destroyed in a house fire.</p> <p>-Complainant has the</p>

			<p>LC1 Court decision in their favour. However the LC2 Court ruled against them and they were referred to LC3 yet the defendant sits on the LC3 court so they could not get justice.</p> <p>-The Complainant has 3 witnesses available.</p> <p>The Complainant was advised to bring the LC1 & 11 Court judgments for perusal and advice.</p>
7.	MWEBE MIKE VS ATTORNEY GENERAL.	RIGHT TO PERSONAL LIBERTY.	<p>-The complainant alleges that he was wrongfully arrested and detained.</p> <p>-Also alleges defamation by Bukedde newspaper.</p> <p>-Complainant alleges that he was subjected to cruel and in humane degrading treatment by the police while in detention. He seeks compensations by government for wrongful arrest and costs for medical treatment.</p>

			<p>- The complainant has two witnesses.</p> <p>-The Complainant was advised to avail medical reports from Masaka hospital, plus evidence of imprisonment and torture.</p>
8.	<p>NDIIBA GODFREY VS MASAKA LORRY PARK DRIVERS ASSOCIATION.</p>	<p>RIGHTS OF A MINORITY SHARE HOLDER.</p>	<p>Complainant was a signatory on the company bank accounts but was removed from being a signatory by the director and secretary yet it is the members who would have done so in a company meeting. Therefore there was discrimination as he was not given a fair hearing before dismissal.</p> <p>-The Complainant was advised to have possible witnesses. He indicated that he has four witnesses.</p> <p>-All documents are under the custody of the respondent. The Commission will</p>

			therefore compel the respondent to avail the required documents before the hearing.

3. QUESTIONS

SN	QUESTION	ANSWER
1	In case the required supporting documents are under the custody of the person/ entity being complained against, how would they be accessed and used in support of the complaint lodged	The Commission under Section 15(b) and (c) of the EOC Act has the powers to order for production of any books, papers or document and also inspect them
2	In case one is falsely prosecuted, imprisoned and defamed in the press, what would be done to help such an aggrieved person?	The commission would conduct investigations, retrieve the pertinent records concerning the alleged prosecution, imprisonment and defamation and determine whether there is a violation that falls under the Commission's mandate. If a violation is found, then it would be handled in accordance with the Commission's complaints handling procedures.
3	What do you do when you do not have any written evidence of what you are complaining about	Written evidence is not the only form of evidence. In absence of documentary evidence, eye

		witnesses can be used to prove a violation
4	Why did the EOC invite the complainants at a short notice without giving them time to prepare	In future, complainants will be given adequate notice before any scheduled meeting

6.0 Closing Remarks

Having concluded the one-to-one sessions with the complainants who were present, the EOC team closed the meeting with a promise to the complainants that their complaints will be heard and determined in a tribunal hearing to be arranged as soon as possible.

7.0 SWOT ANALYSIS

<p>STRENGTH</p> <ul style="list-style-type: none"> • The mandate and powers of the Commission • The presence of the target groups/stakeholders who were very ready to utilize the services of the Commission 	<p>WEAKNESSES</p> <ul style="list-style-type: none"> • Inadequate funds • Untimely programming of activities • Long time taken before settling of complaints • Less visibility and understanding of what EOC is mainly about
<p>OPPORTUNITIES</p> <ul style="list-style-type: none"> • The enormous complaints received which make the Commission exercise its mandate • Government and other 	<p>THREATS</p> <ul style="list-style-type: none"> • Inadequate funds/facilitation • untimely release of funds • Impatience of some complainants • Un cooperative stakeholders

<p>stakeholders' support, both financial and moral</p> <ul style="list-style-type: none"> • The existence of the required expertise to handle the complaints 	<ul style="list-style-type: none"> • Limited knowledge about the mandate of EOC
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8.0 Conclusion

The meeting was so educative and restored the complainants' hopes that their complaints are being expeditiously handled. The turn up was good and the participants appreciated the work being done by the Commission. People have great hope in the Commission and are satisfied that their complaints will be professionally and expeditiously handled.

9.0 Recommendations:

- i. Planning such visits should be done in time to enable timely communication to the relevant stakeholders e.g. the District Leaders and Complainants.
- ii. Adequate finances should be provided to cater for the entire activity e.g. refreshments for the participants, transport refunds.
- iii. Need for timely release of funds for purposes of timely preparation for the activities.
- iv. There is need for more media coverage to increase EOC visibility and stakeholders' understanding of what the Commission is all about.
- v. Pre-tribunal visits are good and they should continuously be conducted before Tribunals hearings are held. These visits enable the complainants and the EOC Secretariat to adequately prepare for tribunal hearings.
- vi. Seven out of the Eight (8) complaints are admissible. The complaint by Mr. Serugo Richard is not admissible until he has availed the requested

information. A tribunal hearing should therefore be arranged for the seven (7) admissible complaints.