



National Human Rights Commission

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THE ROLE OF THE PUBLIC SERVICE IN THE RESPECT, PROTECTION AND PROMOTION OF HUMAN RIGHTS IN RWANDA

Views of Rwanda National Commission for Human Rights

- 1) **Good practices and views regarding the organization, training and education of the public service.**

Best practices on organization of the public service

One of the best practices in Rwanda is the role of decentralization process for a best service delivery.

Rwanda is implementing a decentralization policy since 2000. If the first phase of decentralization (2000-2005) established democratic and community development structures, the second (2006-2010) aimed to consolidate progress on national priorities, such as Vision 2020, and deepen the decentralization process by enhancing effectiveness in service delivery to communities, increasing capacities at levels of administration (Villages, Cells and Sectors) close to communities, promotion of integrated local economic development and fostering community participation at Village level, in the planning and management of local affairs. The third and current phase (2011-2015) is shaping the two previous phases. In this phase multi-sectoral decentralization at local level must be reinforced and mechanisms for partnership between public sector and non-governmental organizations must be operational.

Best practices on education, training and sensitization on human rights

To ensure promotion and protection of human rights in decentralization process, Rwanda National Commission for Human Rights as the first institution recognized specialized and committed to sensitize, educate and train public service on human rights contribute by several initiatives of promotion : sensitization and education of public servants. Its Annual report 2010-2011 sets examples of training of 810 members of National Women Council at sector level in 19 Districts. The training focused to human rights in general and those of women in particular; seminars for Executive Secretaries of 295 sectors and 147 cells and villages on human rights and role of participants in protection of human rights, seminars for cells and villages leaders on principles of human rights and human rights in international conventions and in Rwandan laws; seminar of 52 prisons' leaders in collaboration with the Office of UN Resident Coordinator aimed at rethinking together about standards and rights regarding every prisoner and special rights of different category of prisoners.

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- 2) Activities developed to assist and support the public service at the national, regional and international levels, in particular where human rights aspects were taken into consideration and improved the public service

At national level, NCHR carries out its responsibilities "providing views on bills relating to human rights upon request or at its initiative". It provides views on the draft of Organic Law instituting the penal Code with regard to minimum and maximum sentences and to the legalization of abortion.

Best practice on legislative measures to protect human rights

On minimum and maximum sentences

"In September 2010, the National Commission for Human Rights submitted to the Parliament, the Senate Chamber, views regarding the extreme difference found between the minimum sentence and the maximum prison sentence in articles of the Draft Organic Law governing the Penal Code.

"In the letter n° CNDP/SEP/452/10 of 17th September 2010, the Commission expressed concern due to the possibility that the law might be published without putting right this matter. In the Commission's opinion, 157 articles of the Draft Organic Law containing this problem of extreme difference were many such that they could obstruct the smooth functioning of justice; certain judges could take advantage of the freedom given to them by the law to choose the minimum or maximum sentences, thus leading to injustice for certain parties in court. Most of the Commission's recommendations were accepted by the Senate's Committee that examined the draft organic law."

On penal majority

NCHR gave also views in order to maintain penal majority at 14 instead of to move it to 12 years.

Consequently, at this moment, adopted and promulgated Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code has taken into consideration National Commission's views.

Best practice on women emancipation

NHRC has advised the Senate to remove reservations made when Rwanda ratified Maputo protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa on its article 14, 2, c) below:

"States Parties shall take all appropriate measures to:

Protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus."

New Rwanda penal code mentioned above has incorporated this disposition.

Best practice on policy and strategy and gender mainstreaming

NCHR played the advisory role for the Ministry of Education in elaboration of Girls' education policy in implementation since 2008.

Best practice on advocacy for ratification of international conventions

On sensitizing the Government Institutions as regards to ratification of international conventions relating to human rights and making sure they are integrated in internal laws, NHRC made significant efforts. Lots of international instruments recommended by the NCHR to be ratified since 2004 are now ratified and related periodic reports are regularly submitted to respective committees.

Best practices in cooperation internal promotion for human rights

At sub-regional and regional level, Rwanda National Commission published in Kinyarwanda East Africa Community's convention project on human rights. Recently, Kituo cha Katiba, an Eastern Africa Centre for the promotion of human rights and Constitutional Development invited the NHRC in the Conference on *"Ethnic and racial minority in East Africa: movement towards political inclusion"* held in Uganda in March 2011.

At regional and international level, the National Commission for human rights collaborates with other National institutions of protection and promotion for human rights like International Coordinating Committee of National Human Rights Institutions (ICC), the Association of Human Rights Commission in French Speaking Countries and collaboration with United Nations Agencies.

With UN specialized institutions, the NHRC in partnership with UNICEF is invested in capacity building for the Observatory and the monitoring of the respect of children's rights (ODE).

3) Which categories of services you consider as public services and rationale for providing human rights relevant services directly or particular where human rights considerations were taken into account

- Parliament
- Central Government: Ministries, Boards, Commissions and Councils
- Local governments and its subdivisions: District, sectors and cells and villages
- Different decentralized institutions: courts, Hospitals, and public schools and universities.

All those public service have protection or promotion of human rights in their missions according to Rwandan Constitution.

4) Any recent privatization in sectors where is an obligation to ensure access to human rights relevant services, and concomitant regulatory or other measures which helped to ensure human rights complaints service delivery;

No identified practice on the views of NCHR



5) Good practices in the area of liberalization of trade in services which ensured improved delivery of human rights relevant services

Rwanda has elaborated a *Competition and Consumer protection policy* based on the principles of

- Free and active competition in markets;
- The need for greater economic efficiency, and aim to ensure optimal allocation of resources,
- To help the country be more competitive by lowering costs along the entire value chain, and by assuring foreign investors with an environment to do business unimpeded by closed or distorted markets
- To maximize the benefits of, and compliment the national trade and investment liberalizations program while helping to reduce its potential disruptive effects;
- To preserve regulator flexibility in taking actions in line with the stated objectives of Rwanda's Industrial and Trade Policy, and related policies.

Draft law is pending in parliament.

6) Good practices of public service reform in a post conflict context or after major transitions which ensured improved delivery of human rights relevant services;

After Genocide against Tutsi in 1994, Rwanda made efforts of post-conflict rehabilitation and development in all sectors of activities. It also took measures for transitional justice and reconciliation putting in place a National Unity and Reconciliation Commission, and Gacaca Courts; Rwanda is also one of rarest African Country to have an Office of Ombudsman of which responsibilities are the following:

- 1° Acting as a link between the citizen and public and private institutions;
- 2° Preventing and fighting against injustice, corruption and other related offences in public and private administration;
- 3° Receiving and examining, in the aforementioned context, complaints from individuals and independent associations against the acts of public officials or organs, and private institutions and to mobilize these officials and institutions in order to find solutions to such complaints if they are well founded.

7) The conditions for access to public services position, any restriction which apply and the processes for appointment, promotion, suspension and dismissal or removal from office as well as judicial or other review mechanism which apply to these processes;

To read other issues, question 9.

8) How the requirement for equal access to public service positions is met, and whether affirmative measures have been introduced and, if so to what extent; and

To read other issues, question 9.



9) Any other issues relevant to the scope of this study

Best practice on guaranteed minimum wage and reparation of damage due to road accident.

The NHRC gave views on presidential order N° 31/01 of 25/10/2003 on reparation of damages due to road accidents based on guaranteed minimum wage. This is fixed at 100 RWF as it was fixed by Ministerial decision N° 887/06 of 21/10/1980. At that time it had value over than 1US dollar but today one American dollar equal 640 Rwandan Francs. It means that 100 is about 1/7 of 1USD and is more insufficient to have buying 1 KHW of electricity power today. The NHRC continues to follow up this advocacy initiative.

Best practice on accountability

In Rwanda, every public institution and its employees (public servants), sign performance contract according to results-based management (RBM) approach. The performance contracts are submitted to the Public Service Commission which will serve for monitoring and evaluation.

At the end of the year, employees are evaluated and best employee is each institution is rewarded.

Best practice on advocacy for right to housing

National Commission for Human rights has been received and handled complaints of citizens expropriated from Kiyovu in Kigali City, under renovation. The Commission interviewed them and advocated for an appropriate compensation.

Best practices on transparency in access to public service position

There are 2 manners to access to public service positions: election and recruitment.

Elected public service is constitutionally protected by Rwanda Constitution of 4th June 2003 as amended to date on article 8:

"Suffrage is universal and equal for all citizens.

Suffrage is direct or indirect and secret, unless the Constitution or another law provides otherwise.

All Rwandan citizens of both sexes who fulfill the requirements provided for by the law have the right to vote and to be elected.

The law determines the conditions and modalities for the conduct of elections."

Other positions are governed by Presidential Order N°46/01 of 29/07/2011 governing modalities for the recruitment, appointment and nomination of public servants.

This law is implemented by Public Service Commission established by the Law N° 06/2007 of 01/02/2007 determining the organization and functioning of the Public Service Commission.

Article 4 states that :

"The Commission is in charge of:

1° The recruitment and appointment of public servants in Central Government and other public institutions"

To protect public services interests Rwanda implements the Law N° 22/2002 OF 09/07/2002 on general statutes for Rwanda public service.



