

ROLE OF THE PUBLIC SERVICE AS AN ESSENTIAL COMPONENT OF GOOD GOVERNANCE IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS.

QUESTION ONE. Good practice and your views regarding the organization, training and education of the public service.

ORGANIZATION OF THE PUBLIC SERVICE.

The Public Service Regulations, Government Notice No 168 of 2003 provides for the definition of Public Service¹.

The Constitution of the United Republic of Tanzania and the Public Service Act No. 8 of 2002 provides for the organization of the Public Service. The Constitution of the United Republic of Tanzania stipulates that the authority of the Government of the United Republic of Tanzania is vested in the president and other officers of the government discharge their duties on behalf of the president. The president is the head of state, the head of government and the commander-in-chief of the armed forces. The vice president and the prime minister are the principal assistants to the president. Also there are ministers who are advisors of the president. The Chief Secretary is the head of the Civil Service.

TRAINING OF THE PUBLIC SERVICE.

Constitution of the United Republic of Tanzania Article 11 provides that the government shall make efforts to ensure that all persons are afforded equal opportunity to pursue education and vocational training in all levels of schools and other institutions of learning.

It is the Government policy that Tanzania should be self sufficient in trained and skilled human resources to manage its economy. Systematic approach should be employed by public institutions to build human capital capable of delivering services to the expectations of the citizens. Such approach should take cognisance of growing public private partnership and long term training and development plans of the organisations.

Standing Orders of 2009, section G2 stipulates that the , President's Office, Public Service Management shall be responsible for developing training policy for the public and issuing training directives from time to time.

¹ The regulation defines the Public Service as the system or organisation entrusted with the responsibility of overseeing the provision or directly providing the general public with what they need from their government or any other institution on behalf of the government as permissible by law; and include the service in the civil service; the teachers service; the local government service; the health service; the immigration service and fire and rescue service, the executive agencies service and the public institution service and the operational service

Further to that The Government of Tanzania established the Tanzania Public Service College under the ambit of the Executive Agencies Act(Act No. 30 of 1997).² The main focus is to strengthen the relevance of numerous efforts to improve human capacity within the public service through training and development taking into consideration the current reform programme, challenges and dynamism required with the speed of events in order to ensure a well organized, coordinated system of training and development of staff in the public service, to provide guidance for the efficient and effective training of human resources and their subsequent utilization and to contribute to good governance and professional practice in the public service. Training Policy, 2012 covers in length issues in connection with training for the public servants. Aspects of Human Rights are reflected in connection with its compliance. Training opportunities are required to be provided without discrimination. Introduction of the Public Service Training Tools that should be adhered by Public Institutions in preparation of Training Programme. The Tools emphasize equal opportunities to all public servants.

Public Servants are also trained through the medium term expenditure frameworks(budgets) whereby objectives and targets for capacity building are always set and implemented via short and long term training and education programs whenever there is availability of funds. There are Public Service Funds which offer scholarships for masters programme for women. There are also opportunities for scholarships from various Development Partners for training in various aspects including Human Rights, For instance in the past there were scholarships provided by SIDA for training in either Sweden or other parts of the world. We appeal to the United Nations to supplement Government's efforts in this endeavour by providing long and short term training in new emerging Human Rights issues.

QUESTION TWO; 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.

The Constitution of the United Republic of Tanzania.

The Constitution of the United Republic of Tanzania obliges the state authority and all its agencies to direct their policies and programmes towards ensuring that human dignity and other human rights are respected and cherished and preserved and upheld in accordance

² This College serves as an ideal service provider of knowledge capabilities (knowledge, skills and attitudes)relevant not only to the reform programme but also as part of building the culture of continuous learning for public service. The College has also been established to encompass all training and development needs of Tanzania's public service. It is intended to satisfy the training needs of all levels of the public service including the seniors and top officials of the government such as permanent secretaries

with the spirit of the Universal Declaration of Human Rights. Tanzania has ratified several International Conventions in its efforts to promote and preserve human rights.

In 2010 the Public Private Partnership Act, No. 18/2010³ was enacted.

Public Service introduced a number of processes, tools and mechanisms in order to facilitate the institutionalization of a performance management system. Public Service Reforms introduced client service charter in all its Ministries and agencies. These charters are derived from or are part of mission statements and focus on what the institution sets out to do for its customers; charters increase accountability by setting performance standards.

In 2007 bearing in mind that corruption is an obstacle to principles of democracy, good governance and human rights and poses a threat to peace, tranquillity and security in the society the Government of the United Republic of Tanzania enacted the Prevention and Combating of Corruption Act, No 11/2007 of which its objective is to provide for promotion and enhancement of good governance and eradication of corruption.

In 2008 The Public Service Management and Employment Policy, was formulated.⁴ Enactment of the Public Service Act, No. 8 of 2002 as amended by Act No. 18 of 2007 and the Public Service Regulations, 2003 enforce what is provided by the Public Service Management and Employment Policy, 2nd Edition of 2008. The Public Service Negotiating Machinery, No 19 of 2003 was enacted in 2003. The Act covers issues relating to dispute settlement, right to strike and lock-out and collective bargaining. Enactment of the Recruitment and Disciplinary Codes of Good Practice, 2007 provide for a softer mechanism of disciplinary issues. The two emphasize compliance with Human Rights (fairness, non-discrimination, right to be heard, right to be represented and right to work.

Establishment of the Public Service Recruitment Secretariat to handle the recruitment processes for MDAs, RSs and LGAs. Women empowerment through granting of scholarship to female public servants and public servants with disabilities(both male and female). Provision of employment opportunities under affirmative action on recruitment. This is provided for under the Recruitment Code of Good Practice, 2007.

Involving Non-State actors in performing non-core function enhanced service delivery. Involvement of non state actors strengthened accountability and

³ This Act has objective of providing the institutional framework for the implementation of public private partnership agreements between the public sector and private sector entities. The Act also establishes the Coordination Unit which deals with the promotion and co-ordination of all matters relating to public private partnership projects which include but not limited to the following sectors; education, health, agriculture, infrastructure, industry and manufacturing, exploration and mining, natural resources and tourism, trade and marketing, information and communication technology and energy.

⁴ This Policy covers issues relating to diversity, non discrimination in employment opportunities ,staff welfare, freedom of expression and association through Workers' Association/Councils, right to be heard and right to appeal.

responsiveness of public officials to the public. Participation also enables jointly deliberation of matters regarding rights and obligations of each party in facilitating Government's undertakings.

The Government of the United Republic of Tanzania is an active member of not only the United Nations but also other of various regional bodies such as East African Community, International Conference on the Great Lakes Region, Southern African Development Cooperation and African Union which among their objectives aim promoting and preserving good governance, the rule of law and Human Rights of citizens including the public service. Tanzania has also joined the African Peer Review Mechanism which entails undertaking to submit periodic peer review reports, as well as to facilitate such reviews, and be guided by agreed parameters for good political governance and good economic and corporate governance. Further to that the Government of Tanzania as a member of the United Nations is obliged to prepare and submit National reports⁵.

QUESTION THREE; Which categories of services you consider as public services and the rationale for providing human rights relevant services directly or indirectly through delegation to non-State actors or in mixed systems, in particular where human rights considerations were taken into account.

The services which are regarded as public services are civil service, the local government service, the health services, the immigration service and rescue service, the executive agencies services and the public institutions service and the operational service. They are regarded as public service since it is the system or organisation entrusted with the responsibility of overseeing the provision or directly providing the general public with what they need from their government or any other institution on behalf of the government as permissible by laws. In recognition of the fact that, the government can not do everything alone, and the importance of participatory democracy, it does collaborate rather than delegate to non-state actors the provision of some human rights relevant services such as health, education etc. This emphasizes the need for more consensual way of making policy actions through dialogue with all key stakeholders. This has increased ownership, new public private, consolidation of democratisation and improved sustainability.

Tanzania was reviewed by the Human Rights Council in October 2011 and the final Universal Periodic Report outcomes were adopted in March 2012. The African Peer Review Report for Tanzania will be reviewed by the African Union next year, following the visit by the African Mission in March this year to verify the contents of

⁵ The report is submitted under the review mechanism in which the Human Rights Council upon reviewing the country issues recommendations for the government to improve the Human Rights situation in the country.

the National Report on the implementation of good governance and human rights issues in the country.

QUESTION FOUR; Any recent privatization in sectors where there is an obligation to ensure access to human rights relevant services, and concomitant regulatory or other measures which helped to ensure human rights compliant service delivery.

There is no privatization activity conducted recently. However in discharging its functions the Corporation has always been adhering to Laws, Regulations, International Treaties and Resolutions ratified by the Country, in relation to Human rights such as observing workers rights and environmental rights whenever an entity is privatized.

Media is now largely owned by private investors hence the citizens now have more opportunities to access to information through televisions, radio, newspapers and social networks(internets) for example twitters, face book etc.

QUESTION FIVE; Good practice in the area of liberation of trade in services which ensured improved delivery of human rights relevant services.

One of the good practice is in the liberalization of telecommunications, infrastructure and services, where electronic communications laws have been enacted which ensure privacy rights are observed in the use of mobile phone services, also it ensures a level field for all players . Also competitive environment ensures better and cheaper services to the users/consumers.

Another good practice is the establishment of regulatory bodies⁶ to monitor and oversee the provision of essential services such as utilities, trade and business competitions for consumer protection and environment protection.

In 2003 the Fair Competition Act, No 8/2003⁷ was enacted.

Trade and investment are the important areas through which developing countries can mobilize domestic and external resources for financing development. In domestic trade Tanzania has liberalised trade and removed inter regional/district barriers. The government has been strengthening efforts to integrate trade policies towards poverty reduction including to establishment of sustainable Industrial Development Policy(SIDP), Export Processing Zone(EPZ) Act of 2002, Integrated framework for Trade Development, Joint Integrated Technical Assistance

⁶ Examples of such bodies include Energy and Water Utilities Regulatory Authority, Surface and Marine Transport Regulatory Authority, Fair Competition Commission, Tanzania Communication Regulatory Authority, Tanzania Food and Drugs Authority, Tanzania Civil Aviation Authority and Social Security Regulatory Authority.

⁷ This Act was enacted in order to promote and protect effective competition in trade and commerce, to protect the consumers from unfair and misleading market conduct and to provide for other related matters.

Programme(JITAP) and Small and Medium Enterprise Development Policy. The National Trade Policy has been in place for promoting competitiveness in the economy and export led growth. To improve business in Tanzania, the government is implementing the Business Environment Strengthening for Tanzania(BEST) programme to scale up the reduction of administrative hurdles inherent in the taxation and business licensing systems with a view to reducing high costs of starting and doing business. BEST looks at the legal and regulatory frame work needed to reduce the cost of doing business and thereby improve environment for doing business in Tanzania.

In external trade, the government is committed to furthering economic diplomacy to market Tanzania's products abroad, attract tourists and other service experts and promote investment

QUESTION SIX; Good practices of public service reform in a post-conflict or after major transitions which ensured improved delivery of human rights services;

The Unites Republic of Tanzania has put in place various reform programmes⁸ including the Public Service Reform Programme(PSRP) which is a programme spearheaded by President's office public service management and it started in 2000. The main focus of PSRP is to improve Ministries, Departments and Agencies(MDAs) service delivery and regulatory functions through a more efficient public service. The main goal of PSRP is to help MDAs deliver improved services(in terms of quality, timelines and efficiency), implement relevant priority policies and establish a predictable and well regulated environment for private sector growth and social development.

Over the past few years, the Government of Tanzania redefined its roles and functions, taking a longer term perspective in recognition of the fact that the transformation of the public service would require a decade of sustained reforms to fully realize a public service that is responsive to citizens needs in terms of delivering effective and efficient services. One of the critical challenges being faced by the government in implementing this sector-wide reform as a capacity to lead these reforms.

Enactment of the Public Service Act, No. 8 of 2002 and Public Service Regulations, 2003. Enactment of the Recruitment and Disciplinary Codes of Good Practice, 2007. Introduction and installation of various performance systems such as OPRAS and

⁸ The aim of these programs is to reduce bureaucratic delays, and uncertainties in servicing the business sector and ensuring integrity, rule of law, transparency and regulatory consistency to all so as to create a favourable environment for private sector growth and investment. Financial Reform program aims at ensuring that regularity in procurement activities, in particular to address the problem of ghost workers, the risk of fraud, misappropriation of funds non-compliance with rules and increase accountability in the public service.

Client Service Charter. Introduction of Private Sector Participation(PSP) for non core activities and in various issues that need to be deliberated amongst stakeholders. The use of information Technology and installation of various IT Systems ensures access to information to the public and speedy undertaking of Government functions which enhance service delivery.

QUESTION SEVEN; The conditions for access to public service positions, any restrictions which apply and the processes for the appointment, promotion, suspension, and dismissal or removal from office as well as the judicial or other review mechanism which apply to these processes;

The Constitution of the United Republic of Tanzania.

The Constitution provides that all the citizens of the United Republic of Tanzania have equal right to work, right to hold any office or discharge any function under the state authority and to take part in all matters pertaining to the governance of the country either directly or through representatives freely elected by the people.

The Public Service(Amendment) Act No. 18 of 2007 establishes the Public Service Recruitment Secretariat which is responsible for facilitating recruitment of employees in the public service. Whenever a vacancy occurs in the public service, the post is advertised and interview is conducted to suitable candidates. The Secretariat is responsible for conducting merit based recruitment on the public service .

The Public Servants are employed on the basis of their education qualifications and experience. The selection of candidates in different posts in the public service is based on merits through an open competition by conducting interview. The interview for appointment of public servant is done in a manner so as to ensure objectivity, consistency and to attain the right qualities of the applicants. The main criterion in selecting candidates for appointments, promotion and transfer is the efficiency of the service. Applications for appointment to vacant posts are invited by public advertisement in the United Republic and such advertisement shall not be discriminative on the basis of gender and disability.

Every head of department or division shall be the authority in respect of the appointment, confirmation and discipline of employee in the operational service under his department or division. The Public Service Commission is charged with facilitating the appointment to posts of director or commissioner.

Promotion is based on performance and efficiency to perform and execute the duties by an employee, career development and succession plan, seniority amongst the employees and the scheme of service.

The restrictions imposed include , nationality, to have referees and medical fitness, Upon attaining the age of forty five years one cannot be employed under permanent and pensionable terms, a person who has been previously dismissed from the public service can only be re-engaged after the permission of the Chief Secretary.

The Public Service Regulations provides for a strict procedure abiding to the rule of law including that the dismissal of public servants shall be done only after the disciplinary procedures have been concluded and the accused public servant is accorded right to be informed the charges facing him, right to present his defence, right to cross-examine any witness, right to have a legal representation and the right to call witnesses on his behalf and produce any document relevant to the inquiry. The Courts have mandates to review the processes.

QUESTION EIGHT; 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

Public service recruitment is conducted by the Public Service Recruitment Secretariat in collaboration with respective employers. The Secretariat uses guidelines provided by the Public Service Commission. Guidelines provides for condition of access in case of interviewing in ranking among male and female, disabled and non-disabled and candidates of different ages whereby a female candidate is given priority over a male candidate, a disabled over an (abled) and the aged over underage respectively. This affirmative measure is provided for under the public service recruitment guidelines Na. 2 of 2004 as reviewed in 2011. Another development has been the consideration of employees living with HIV/AIDS who are provided with special food supplements, light duties upon request and physicians recommendations and treatment support.

Substantive posts which are filled through advertisement subsequent interview carried out by the Public Service Recruitment Secretariat. Superlative substantive posts are filled by public servants with necessary qualification and experience. Applications for appointment to vacant posts are invited by public advertisement in the United Republic and such advertisement shall not be discriminative on the basis of gender and disability. The selection of candidates in different posts in the public service is based on merits through an open competition by conducting interview. The interview for appointment of public servant is done in a manner so as to ensure objectivity, consistency and to attain the right qualities of the applicants. The main criterion in selecting candidates for appointments, promotion and transfer is the efficiency of the service.

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

The government when entering contracts with the investors it puts up a clause Obligating investors to Corporate Social Responsibility(CSRs) to ensure surrounding

communities benefit from the investment made/conducted in their areas; through protection of the environment and taking part in resolving social problems facing the surrounding communities like building of schools hospitals and supply of water.

The Government of the United Republic of Tanzania is committed to good governance as the key requirement for attaining the Millennium Development Goals(MDGs). In Tanzania, tremendous efforts in promoting good governance and accountability have been made. Various measures and reforms towards strengthening good governance have focussed on the areas of democracy and human rights, legal and institutional systems and reform in the public service.

Public Service Reform Programme(PSRP), Local Government Reform Programme(LGRP), Public Financial Management Reform Programme(PFMRP) and Legal Sector Reform Programme(LSRP). These reform programmes aims at contributing good governance out come, improved public service delivery, better economics management, positive cultural changes and democratic development.

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