

# **ETHICS MANAGEMENT AS AN IMPORTANT ASPECT OF DEMOCRATIC DEVELOPMENT AND PUBLIC ADMINISTRATION: A CASE STUDY OF TANZANIA.**

## **1.0 INTRODUCTION**

The modern democratic state in all its forms is the current bedrock of public leadership. The attributes of such leadership can only be grasped by understanding the design of the modern state. From Plato's Republic, in ancient Greece, it is clear that public leaders are assumed to be people with special leadership acumen coupled with an unimpeachable character. For Plato leaders are the Guardians of the State and must be well educated and of high integrity, in short, "men of gold". Plato even assumed that such people should be celibate in order to devote most of their time to the complexities of the state. A similar perception of the qualities of public leadership resonates throughout history. In Roman times Cicero committed some of his most memorable writings to the qualities of a good leader. In his "De Officiis" (On Duty) Cicero makes a contrast between duty and expedience. He argues that a good leader is one imbued and guided by the moral dimension and not expedience. In the Middle Ages in Europe Machiavelli's 'The Prince' is concerned with a public leader led by expedience and utility for the good of the State.

The question as to what is a good public leader is by and large ethical. Attempts have been done to define the qualities of a public leader. In 1995 The Nolan Committee in the United Kingdom outlined the following Seven Principles of Public Life as: Selfness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. The Principles have been widely debated and are considered a good foundation on systems or rules concerning Ethics of public leadership.

In Tanzania concern to regulate Public Leadership has its roots in the British Colonial Administration. The Colonial Government enacted the first anti-corruption legislation – the Prevention of Corruption Ordinance Cap 400 enacted in 1958. After independence in 1961, President Julius Nyerere’s first attempt at regulating the leadership was through the Permanent Commission of Enquiry stipulated in the provision of the Interim Constitution of the United Republic of Tanzania of 1965 to inquire, when need arose, into the conduct of public leaders.

Mwalimu Julius Nyerere had an over-arching role in supervising the adherence to the Leadership Code. His exemplary integrity created the myth that, the President by dint of example, was the superintendent and the role model for ethical leadership. It is to be noted that the creation of a formal system of regulating public leaders’ ethical conduct was not punitive rather educative, based on guidance than punishment. The intention was to create an alternative scheme for the regulation of public leaders, exhortative in character and complementary to the penal regime.

## **2.0 RATIONALE FOR ETHICS MANAGEMENT**

Since the mid 1980s the world has been undergoing major social, economic, and political changes. Amongst others, are privatization and contracting out, decentralized management, greater pressure for openness, multipartism, changing mores, more intensive media scrutiny, and increased accountability mechanisms. Also, there has been a debate on how to make the public sector function in the best way, a debate on the role of government, of regulatory institutions and good governance in developing world. Ethics management has been singled out as a crucial aspect to better understanding of the responsibilities of the government and how it should interact with citizens, civil society and foreign as well as domestic corporations and private business.

Ethics management plays an important role in democratic development and public administration, because it provides guidelines and regulations for the organization of the state. In their totality these guidelines and regulations are prescribed as minimum ethical standards, and have to be adhered to by elected, appointed officials and other public servants in the course of dispensing their duties. This is crucial in bringing about an efficient and effective public administration and democracy as a basis for improving public confidence in the integrity and credibility of the government.

### **3.0 ETHICS MANAGEMENT AS AN IMPORTANT ASPECT OF DEMOCRATIC DEVELOPMENT AND PUBLIC ADMINISTRATION IN TANZANIA**

Ethics management as an important aspect of democratic development and public administration in Tanzania could be explained within the framework of state-society relationship. Since independence in 1961, Tanzania has been managing ethics as a panacea to instituting democracy as well as efficient and effective public administration. However, many factors, internal or external have been influencing different levels of performance at different times. This paper aims to portray the essence of ethics management in Tanzania, in enhancing democratic development and efficient and effective public administration.

#### **1960s**

At independence in 1961, Tanzania, committed itself to fighting the three identified major national enemies; namely poverty, ignorance, and diseases (Chachage, 2003). Also, the Government ventured on the restoration of African dignity through nationalistic movements with a view to eliminate discriminatory practices left by the colonialists (Kahama, et al, 1986). These commitments portray Government's stance to enhancing the

welfare of its citizens. The public administration that was inherited from the colonial rule was being transformed in order to align with the Government's goal. As far as ethics management was concerned in 1962 the then ruling Party, TANU, issued the ten (10) TANU pledges, as guiding principles or commitment in service. The TANU pledges propagated self-dedication to the service of the community instead of oneself or selflessness. For instance, pledge No. 4 identified corruption as an enemy of justice while pledge No. 5, prohibited the use of official position or that of any other person for personal gain (Kaduma, 2003).

In 1967 the Arusha Declaration was proclaimed ushering in an era of "African Socialism or Ujamaa" on one hand and prescribing ethical standards for specified public leaders on the other hand. Amongst others, public leaders were not allowed to engage in business. Here we see an attempt to regulate public leaders not from restraining laws per se but through *Code of Honour*. In tandem with the pronouncement of the Arusha Declaration the government nationalized all the major means of production and put them under the Government control. Also, public institutions were developed to manage the nationalized economy (Mwansasu and Pratt, 1979).

It is important at this juncture to mention that the state was operating under one party system. Also, it is important to highlight that clear separation of power between the Legislature, the Executive, and the Judiciary to some extent was blurred by the fusion of power under one party system. Besides, the State was playing a dominant role in economic development. The role played by the private sector and the civil society in development was inconspicuous. Underdevelopment of the civil society minimized transparency on the part of the Government, because,

mechanisms for accountability were not strong. However, elections were being called for after every five years.

### **1970s**

This period was characterized by a number of ethical developments, which led to democratic developments and strengthening of public administration. In 1971 the then ruling party TANU issued the TANU Guidelines ('Mwongozo') in which issues of ethical standards to monitor the conduct of the leaders were issued (Kahama et al, 1986). Also the Guidelines propagated on acts that gave the people ability to decide freely on their own (Kaduma, 2003). Also, the requirement of the Arusha Declaration continued to be implemented in this period.

In 1973 "the Guidelines" received legislative recognition through the enactment of the Committee for the Enforcement of the Leadership Code Act 1973 which was amended in 1987 to give it a broader coverage by applying it to Zanzibar. It is relevant to point out that the 1973 Act has a lot of "kinship" with its successor the present Leadership Code of Ethics Act No. 13 of 1995.

### **1980s**

1980s marked major changes in the social, political and economic spheres the world is experiencing to date. Examples of these changes are the end of the cold war, spreading democratization, new information and communication technologies, a shift in balance of power among the state, the market and civil society, globalisation, and changing mores. These changes have altered the environment in which governments are operating and enabling the public to demand higher standards of ethics, transparency and accountability in the public sector (UNPAN, 2008).

Tanzania as part of the world family has not been spared from the changes. The fall of the Soviet Union was a major change, which caused noticeable policy shift in the country. Meanwhile, in this period, Tanzania experienced severe economic crisis. The crisis was mainly a result of the war it fought with Uganda, socio-economic crisis of the 1970s, adverse weather conditions, and failure of the world economy, but to mention a few. Tanzania had to adopt the Structural Adjustment Programs (SAPs). SAPs, which lay emphasis on the elimination of government regulation, reduction of taxes, provision of tax incentives in business, removal of welfare benefits and privatization of government service delivery as ways of dealing with the economic crisis (Chachage, 2003). The adoption of SAPs package, for example, privatization brought over serious negative governance consequences, in particular corruption. It is important to mention that the adoption of the SAPs ushered Tanzania into the world of the free market economy, which incapacitated the implementation of the Arusha Declaration. The Leadership Code of Ethics could not work effectively under those circumstances. This resulted to enormous misgovernance practices like corruption, misuse of public resources and misuse of power.

### **1990s to Date**

Basing on the events in 1980s, since 1990s the government of Tanzania has been implementing different governance reforms with a view to promoting ethics management as a way of strengthening democracy and efficient and effective public administration. Amongst the reforms are:-

- Public Service Reform Program (PSRP) I and II,
- Public Finance Management Reform Program (PFMRP),
- Local Government Reform Program (LGRP),
- Legal Sector Reform Program (LSRP),

- Strengthening the Prevention and Combating of Corruption Bureau, which supervises operationalization of the Prevention and Combating of Corruption Act No. 11 of 2007,
- Establishment of the Presidential Commission of Inquiry Against Corruption (PCIAC),
- Establishment of the Commission for Human Rights and Good Governance, which supervises the operationalization of Act No.7 of 2001 and Act No. 12 of 2003 in Tanzania Mainland and Tanzania Zanzibar, respectively,
- Establishment of the Good Governance Coordination Unit,
- Establishment of the Code of Ethics and Conduct for Public Service of 2005,
- Devising of the National Anti-Corruption Strategy Action Plan (NACSAP) I and II, and
- The Enactment of the Public Leadership Code of Ethics Act No. 13 of 1995, which will be the main focus of the rest part of the paper/presentation.

#### **4.0 ENACTMENT OF THE PUBLIC LEADERSHIP CODE OF ETHICS ACT NO. 13 OF 1995 (P.L.C.E No. 13 of 1995)**

In 1995 the Constitution of the United Republic of Tanzania was amended by introducing Article No. 132, which directed for the enactment of Public Leadership Code of Ethics Act No. 13 of 1995. The Act establishes a statutory basis for the development of standards of ethics for public leaders. These standards aim at strengthening ethics, accountability, and transparency of specified bureaucrats and politicians defined as public leaders. These public leaders are from the executive, legislature, judiciary, police, and the military and at present approximately 7800 people, who hold listed positions in the Act, are subjected to its provisions. Also, Article 132 established the Ethics Secretariat, which is an extra ministerial department of Government under the Office of the

President. The Ethics Secretariat supervises the implementation of the Act and its main functions are:-

- (a) To receive Declarations which are required to be made by public leaders under the Constitution or any other law
- (b) To receive allegations and notifications of breach of the Code by members of the public, and
- (c) To inquire into any alleged or suspected breach of the Code by all public leaders who are subject to the Act.
- (d) To carry out awareness creation of the Public Code of Ethics to stakeholders and members of the public.

### **The Basic Ethical Principles of the Code:-**

#### **Incontestable integrity**

Public leaders are obliged to uphold highest possible ethical standards in the course of dispensing their duties. Among others are acting with honesty, impartiality and openness (transparency)

#### **Decision Making**

The P.L.C.E Act No. 13 of 1995 provides guidelines for public leaders to make decisions in accordance with the law and in the public interest.

#### **Avoiding Situations of Conflict of Interest**

Public leaders have to arrange their affairs in a manner that will prevent real, potential or apparent conflict of interest from arising between their private interest and their official duties and responsibilities. If such conflict to arise should be resolved in favor of the public interest.

#### **Public Scrutiny**

The Act provides mechanisms for monitoring public leaders' performance and behaviour by their subjecting their official duties and private affairs to close public scrutiny.

**Gifts and benefits**

Non solicitation or acceptance of economic benefit (currency to law allows gifts valued at Tshs. 50, 000/= (1995 value), approximating US \$ 50.

**Preferential treatment**

Not to step out of official roles to assist private entities or person in their dealings with government.

**Insider Information**

Not to take advantage of or benefit from information obtained in the course of official duties/responsibilities and not generally available to the public.

**Government Property**

Public leaders are not allowed to directly or indirectly use or allow use of Government property for private benefit.

**Post Employment**

Not to act in a manner so as bring service to ridicule or take improper advantage of previous office (conflict of interest).

**Declaration of wealth**

Public leaders are obliged to declare their Assets and Liabilities; within thirty days after taking office, at the end of each year, and at the end of their term of office. Assets and Liabilities of spouses and unmarried minor children have to be declared too.

**5.0 THE ROLE OF THE PUBLIC LEADERSHIP CODE OF ETHICS No. 13 of 1995 IN ENHANCING DEMOCRATIC AND EFFICIENT AND EFFECTIVE PUBLIC ADMINISTRATION**

The list of public leaders under Section 4 (i) of the Act comprises of public servants and politicians from the three arms of the government; the executive, the legislature, and the judiciary.

Leaders from the police, the prisons and the military are also included. The public leaders are the main decision makers in the Ministries, Independent Departments, and Agencies (MDAs). Their decisions (governance) have major impact on good governance. Commonwealth Australia, 2000 refers good governance as an effective or competent management of country's social and economic resources in a manner that is open, transparent, accountable, equitable and responsive to people's needs. The Public Leadership Code of Ethics Act No. 13 of 1995 provides ethical standards to be adhered to by all public leaders. The Act also provides guidelines for ethical decision making processes by public leaders to ensure effective use of political authority, exercise of control over society and management of country's resources for sustainable economic development, and improvement of the quality of life and social well-being. Improvement of the quality of life and social well-being enhances the integrity and credibility of the state in the eyes of the citizens and the international community, which eventually underpins public confidence and trust to the government.

The role of the Public Leadership Code of Ethics No. 13 of 1995 in ethics management as an aspect for democratic development and efficient and effective public administrations could be explained within the principal-agent framework. The principal-agent model examines organizational relationships as a tension between the 'principal' who demands a service and the 'agent' who provides it (Lane, 2000; Stiglitz, 1987; Walsh, 1995). The model assumes that actors are motivated by rational self-interest. In the light of the principal-agent relationship, the public (the citizen) is the ultimate principal or consumer of specific services rendered by the government. Mechanisms for public leaders to manage the self-interest of the public, whom they have been empowered to act on their behalf are provided for in the

Leadership Code of Ethics Act. The Code also provides restrictions to public leaders on misuse of insider information, preferential treatment, misuse of public resources and conflicts of interest. A matter of concern is the absence of a clear definition of conflict interest in the Leadership Code of Ethics Act.

Public leaders are 'principals' in the sense that politicians seek their mandate from and act as the representatives of the public. The public can demand accountability from their leaders by making them responsible for their actions and inactions. Appointed officials are in theory the agents of political leaders in executing policy. It is their responsibility to pursue public good by enhancing civil society participation, ensuring a well run, fair, and effective public service. Besides, appointed officials are accountable to politicians, especially the Legislature. The P.L.C.E No. 13 of 1995 prescribes ethical standards to be adhered by both politicians and appointed officials in the course of discharging their duties. Besides, the Code provides mechanisms for the public and leaders to lodge complaints to the Ethics Commissioner on any breach of the Code by the public leaders.

Furthermore, the Ethics Secretariat has the mandate to initiate investigation on any breach of the Code by the public leaders. In so doing the Code contributes to developing democracy, and making public administration efficient, effective and accountable. The Code propagates accountability, transparency, openness, and fairness in decision making processes, which are crucial in good governance and the socio-economic well being of the public. By and large, the ethical standards prescribed in the Public Leadership Code of Ethics Act No. 13 of 1995 aim at institutionalizing and managing ethical culture in public leaders, who play a very crucial role in policy formulation, policy implementation, and decision making for the government. These

leaders have great influence in the efficient and effective functioning of the government and in enhancing public confidence to the integrity and credibility of the government.

## **6.0 CHALLENGES**

Regardless of different initiatives taken by Tanzania to promote ethics, ethics management in Tanzania still faces a number of challenges, such as:-

- Ethics is perceived as a personal, ineffective, religious stuff, which could not be enforced and it is not pertinent to work.
- Information asymmetry, whereby the public is not well informed on ethical issues,
- Duplication of and complimentary roles and responsibilities for institutions which oversee ethics promotion,
- It is influenced by different changes that occur in the world, which has negatively affected the process of ethics management in Tanzania, because the nation has been culture blurred, and
- Lack of human and financial resources, but to mention a few.
- Lack of mechanism at the virtue of making a distinction between the business activities of public leaders with those of governance.

## **7.0 RATIONALE FOR LEGISLATIVE CHANGE**

After almost fifteen years, it is necessary that the Public Leadership Code of Ethics needs to be updated, especially in view of rising public expectations regarding the conduct of public leaders. In addition, in the years since its enactment, many legislative changes have impacted on the operation of the Act, including:

- 2000 – Enactment of a Code of Ethics for Local Government Councillors who are also covered under the *Public Leadership Code of Ethics Act*.
- 2001 – Enactment of the *Commission for Human Rights and Good Governance Act*.
- 2003 – Introduction of the Public Service Regulations providing for a Code of Conduct for civil servants.
- 2004 – Expansion of the mandate of the Ethics Secretariat to cover not only public leaders but also middle level public servants.
- 2004 – Enactment of the *Public Procurement Act* and subsequent Regulations establishing certain mechanism that address area in the existing *Public Leadership Code of Ethics Act*.
- 2007 – Enactment of the new *Prevention and Combatting of Corruption Act*.
- 2008 – Enactment of the *Public Audit Act* to audit Government accounts and ensure the proper use of public property.

In addition, new strategies such as the Poverty Reduction and Growth Strategy (MKUKUTA) have been introduced, addressing good governance as one of the three clusters in the Strategy and the National Anti-Corruption Strategy and Action Plan (NACSAP), adopted by the Government to strengthen governance, transparency, accountability, integrity and efficiency for improved public delivery in the period of 2004-2007. This Strategy has been extended to 2011, covering both central and local government. In tandem integrity committees have been established in every Ministry Independent Departments and Executive Agencies. There have also been administrative changes such as the establishment of six Secretariat Zonal Offices which bring the Secretariat closer to stakeholders in executing its functions and mandate.

Finally, perception has been growing amongst stakeholders, including opinion leaders and within the media, that the current *Public Leadership Code of Ethics Act* has not been sufficiently effective in curbing unethical conduct among public leaders. The criticisms centre on the deficiencies of the *Act* and charge that it “lacks teeth” to prevent conflict of interest from arising and providing mechanisms to deal with conflicts when they do arise.

Furthermore in 2008, in a major speech in Parliament, President Jakaya Mrisho Kikwete announced his intention to improve the declaration of assets of public leaders. He said: “I am emphasizing integrity among leaders and civil servants, and in particular dealing with conflict interest..... I have directed we look into how we separate private business and public service at the senior levels. Many countries have this kind of separation but we have not done so.....”

This is a legitimate concern and true enough, a lot of ethical breaches arise when these two spheres are mixed. In Plato’s “The Republic” the Guardians or the Rulers, never deal with business affairs, they devote their lives to governance.

The Public Leadership Code of Ethics does not prohibit public leaders from partaking into business ventures/activities while performing their official duties. This is a gray area giving rise to conflict of interest. The challenge is how to make this separation real.

In the light of all the above, a review of the Act has been undertaken and proposals for amendment have been developed. The review included a clause by clause analysis of the Act, study papers on the institutional arrangements for handling conflicts of interests in six selected countries, (Canada, Ghana, Malaysia,

Singapore, Trinidad/Tobago and the USA), an overview of relevant UN and OECD documents, a comparison of key provisions in the six jurisdictions studied, and an outline of the main features of the current Public Leadership Code of Ethics Act.

In May, 2010 a Focus Group-Workshop was held with key stakeholders to present the proposals and receive feedback. A further, more broadly-based consultation was planned. However due to political exigencies, the Ethics Secretariat was directed to prepare and present formal proposals Cabinet Paper, for Government consideration and decision on the proposed amendments of the Act. This was done and the same is awaiting Cabinet approval. The issue of separating business and leadership has been critically outlined and appropriate recommendations mainly to address the conflict of interest aspect have been made.

Allow me at this juncture to recognize and thank Madam Mary Gusella, The CIDA Lead Consultant whose valuable contribution due to her vast experience in the area of Leadership Ethics, helped the Ethics Secretariat to critically examine and review the leadership Code of Ethics Act No. 13 of 1995, as well as make comparison on the models and best practices in addressing conflict of interest including mechanism for separating business and public leadership.

## **CONCLUSION**

Ethics management is an important aspect of democratic development, efficient and effective public administration. Ethics, is an indispensable aspect of policy formulation, policy analysis and policy implementation, because these processes entail decision making processes. No matter how big and what role the state is playing both policy makers and civil servants have discretionary powers and make decisions that affect the general public. Their decisions ought to be based on some form of ethics.

In recent years many governments world wide have been employing resolute measures to promote ethics as a way of fighting vices, in particular corruption. And true enough the modern state is bedeviled with the corruption phenomenon which has become the “social cancer” of our times. The list of International Conventions, for example The United Nations Convention Against Corruption (UNCAC) and Organs that deal with corruption is illustrative. Currently the Independent Commission Against Corruption in Hong Kong is advancing the slogan that “Ethics: Your First Line of Defense Against Corruption Bribery and all other vices”.

The Public Leadership Code of Ethics Act No. 13 of 1995 provides ethical standards and guidelines to be adhered to by all public leaders in the decision making processes. The ethical standards hold public leaders accountable for their actions and inactions. Ethical standards prescribed in the Code of Ethics restrict public leaders from engaging in acts which propagate inter alia conflict of interest and misuse of public resources. Accordingly the Code provides a workable arena for democratic development and efficient and effective public administration, with the ultimate goal of enhancing public confidence in the integrity and credibility

of the Government. Admittedly there is room for improvement and a lot of work to be done to achieve the desired results.

Last but by no means the least, let me thank The Institute of Public Administration of Canada (IPAC) the Organizers of The 62<sup>nd</sup> IPAC National Annual Conference for inviting me to attend and share my humble experience on “Ethics in Democratic Development”. Coming back to Ottawa at this point in time after a sojourn of seventeen years is a momentous occasion for me and I thank God for that. I salute and commend my fellow panelists for their excellent presentation. I wish the Conference and the delegates fruitful and successful deliberations.

I thank you for your attention.

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