



Commission Decides on Civil Servants' Rights

6 May 2011

Determining an equitable balance between the exercise of democratic values such as freedom of expression with the promotion of professional value of responsive service by a civil servant is a complex issue. The question posed must be considered within the context of the public interest which in itself is difficult to define.

Simply put, public interest may be defined as the consideration of a broader conception of social common interests versus individual self-interests as stated in section 108(a) of the 2009 Constitution.

In this particular scenario, the questions to be answered are – in what circumstances would a civil servant, whose conduct should be politically neutral, be allowed to engage in political activity? I.e., when should a civil servant be allowed to sign a petition to be submitted to the government which he or she is serving?

Further, if the issue is deemed to be a matter of national importance, is protection afforded to the civil servant or does his or her freedom become more restricted?

Is his or her position or level of influence in decision making relevant?

Should certain sectors of the civil service be completely free to participate in any political activity?

The Commission recommends that Head of the Civil Service meet with the Civil Service Association to formulate appropriate guidelines regarding involvement in political activities.

Details should specify, for clarity, the existing limitations, i.e. prohibition against running for public office, section 62(2) of the Constitution, as well as define the nature of political activities contemplated by section 5(d) of the PSML to address the current ambiguities.

For these guidelines to have the force of law required by section 11(2) of the Constitution, they must be referred to Parliament by the Cabinet and enshrined in the PSML.

In the absence of clearly stated legal restrictions placed on civil servants and their involvement in political activities, any actions arising out a civil servant's exercise of their freedoms under section 5(d) of the PSML and sections 11 of the Constitution may be a matter best decided in a court of law.

[Read the full report.](#)