

FIRST DRAFT

**THE PUBLIC SERVICE REFORM AND
INSTITUTIONAL CAPACITY DEVELOPMENT
PROJECT (PSRICDP)**

CONSULTANCY SERVICE

**TO
REVIEW AND UPDATE
THE LEGAL
FRAMEWORK**

**OF THE
PUBLIC SERVICE SECTOR**

BY

**FANA FANA CHAMBERS
BARRISTERS & SOLICITORS**

**NO. 1 IMAM LAMIN BAH STREET
BANJUL – THE GAMBIA**

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1.0 INTRODUCTION

The Civil Service of The Gambia, like that of most African countries, is no longer expected to be a vehicle for the maintenance of law and order, as was the dominant aim during colonial rule. It is now seen as a catalyst for economic change, a stimulator for national development and a vehicle that ensures that the benefits of economic and social progress are accessible to everyone and not just to a privileged few. The new role of the Civil Service as succinctly defined by Dr. Jide Balogun, an eminent scholar and researcher in his book “Reforming the Civil Service of Africa”, is “To address the challenges of growth and development in order to transform our natural resources into goods and services that meet the revolution of rising expectations that come with political independence”.¹

The mission statement of the Civil Service of The Gambia is “To develop and sustain a cadre of servants that is effective, efficient, dynamic, productive and responsive to national goals and objectives”. Although a range of civil service reform and capacity development initiatives have been undertaken in The Gambia since 1980, positive and concrete results have been very limited. It is widely recognized in policy circles that human and institutional capacities to formulate policies, design and implement development programmes and deliver quality services to meet the country’s development agenda are not only limited, but are also rapidly deteriorating at an alarming rate.

To address this challenge, the Public Service Reform and Institutional Capacity Development Project (PSRICDP) seeks to achieve three fundamental objectives:

¹ “Reforming the Civil Service of Africa”, J. Balogun - 1998

1. To strengthen Government leadership and co-ordination of capacity development and public service reform;
2. To develop short-term strategies and measures to address pressing capacity gaps in selected strategic areas; and
3. To update and review the body of rules, regulations and other administrative provisions governing the functioning of the Public Service.

2.0 TERMS OF REFERENCE

As reflected in the Terms and Conditions of the contract signed by UNDP – The Gambia Country Office and Fana Fana Chambers on 29th July 2009, the tasks prescribed for this assignment are:

1. To review and update the existing body of rules, regulations and other administrative provisions governing the functioning of the public Service, - viz
 - a. The Public Service Act 1991,
 - b. The General Orders,
 - c. The Public Service Commission Regulations,
 - d. The Code of Conduct,
 - e. The Foreign Service Regulations,
 - f. The Financial Instructions and
 - g. The Budget Management and Accountability Act.
2. To recommend amendments and updates for all the Rules and Regulations of the Public Service Governing Bodies.
3. To analyze and review the Public Service 1991 Act and Section 174 of the Constitution and make appropriate recommendations for amendments or revisions.
4. To develop appropriate training and orientation material for delivery of training to designated staff in managing, updating and disseminating the Legal and Regulatory Framework of the Public Service.

5. To organize training for a pool of trainers from the Public Service Commission and Human Resource Focal Points of key Government Institutions to facilitate and ensure delivery assurance, compliance and above all maintenance of discipline and consistency in the enforcement of rules and regulations and finally,
6. To produce a high-quality report that will inform and guide Government policy in updating, reviewing, making provisions, and disseminating the revised rules and regulations produced.

3.0 METHODOLOGY

The methodology employed was varied and inclusive and covered the following:

1. Extensive and in-depth review of relevant literature, reports, research findings, articles and studies related to the Public Service. The experiences of Commonwealth and other countries that have excelled in civil service reform, innovation, and implementation of “Best Practices” were closely examined.
2. In-depth interviews and discussions with key public officials and policy makers, including Permanent Secretaries, the Chairman of The Public Service Commission and representatives of the different echelons of the Public Service including junior grade staff. We also benefited from insights and experiences offered by Her Excellency The Vice-President, the Honourable Speaker of the National Assembly including the Majority Leader, the Minority Leader and some other members and staff of the Assembly and His Lordship, the Chief Justice, during a courtesy visit arranged by the Personnel Management Office.
3. Administration of Questionnaires designed to capture the views, perceptions and recommendations of the different cadres and stakeholders of the Public Service, on the relevance, weaknesses, strengths and acceptability of the varied legal and regulatory instruments governing the Public Service.
4. Focus group discussions on specific themes of general concern e.g.

- i. Strategies for restoring the functionality and integrity of the structures established by law;
 - ii. Innovative mechanisms and “Best Practices” adopted in some countries of the Commonwealth for the purpose of enhancing proficiency, capacity-building, productivity and discipline in their public services;
 - iii. Mechanisms for ensuring supervision, monitoring and effective implementation of the provisions of revised rules and regulations.
5. Organization of a stakeholders’ validation workshop to elicit feedback on the findings and recommendations of a draft report.

4.0 LIMITATIONS AND CONSTRAINTS

In the execution of the assignment, we encountered five major constraints.

1. The widespread absence of the legal and regulatory instruments in most of the offices visited.
2. The very visible and overwhelming lack of familiarity with the provisions of these instruments.
3. The non-chalant attitude of many officials towards the completion of the structured Questionnaires administered by our Research Assistants/ Enumerators. The reluctance of many officials to give the research assistants necessary time and attention, unduly prolonged the data-collection exercise.
4. Finally the administrative arrangements made for the organization of meetings and interviews were often ad-hoc and not firm and this caused frequent changes and avoidable delays.
5. The failure of several Ministries and Departments to provide written submission on observations and suggestions for revision of the instruments.

5.0 FINDINGS AND SUGGESTIONS

The following findings and suggestions essentially emerged from four major sources;

1. Lessons and insights gained from extensive perusal of relevant materials, reports, studies conducted in recent years on different challenges facing the public service.
2. Analysis of the strengths, weaknesses and validity of the existing instruments.
3. Perceptions and suggestions offered by the senior managers of the service during our meetings and interviews.
4. Findings from Questionnaires completed by middle and junior level managers, supervisors and clerks.

Needless to say, these findings and suggestions are at a preliminary stage, since the process of consultation has not been concluded and the data generated from the completed Questionnaires is currently being coded for comprehensive analysis and tabulation. This means that our submission should be viewed as a first draft report covering the outcome of discussions, investigations and analysis conducted since the commencement of the assignment i.e. from mid-August 2009 to end of September 2009. Appendix A reflects the list of officials that the team has so far met.

This first draft report essentially focuses on the first two subjects identified on the milestones for the assignment and attached as an annex to the contract signed on July 29, 2009 viz:

1. Report on review and updating of the existing body of rules, regulations and other administrative provisions in the Public Service; and
2. Report on recommended amendments and updates of all the rules and regulations of the governing bodies of the public service.

Since the consultations arranged for the team have not yet covered some key officials and major stakeholders e.g.

1. The Permanent Secretary, Ministry of Finance and Economic Affairs,
2. The Directorate of the Treasury,
3. The Auditor General,
4. The Office of the Ombudsman,

this first draft report limits itself to four major legal instruments viz;

- A. The General Orders,
- B. The Public Service Commission Regulations,
- C. The Foreign Service Regulation, and
- D. The Code of Conduct.

5.1 THE GENERAL ORDERS

In his monumental book, *THE PRACTICE OF MANAGEMENT*, Peter Drucker argued that “The design of appropriate structures and application of appropriate rules and regulations constitute the lifeblood and cornerstones of all effective and efficient organizations”. Structures are meant to clarify who is to do what and who is responsible for what results. This dispels obstacles to performance caused by confusion and uncertainty. Similarly without the adoption and application of carefully developed rules and regulations to govern behaviour, performance and standards, organizations gradually decay and degenerate into sterile and ineffective organisms incapable of accomplishing their mission and objectives. When decay sets in within any institution or public body (as a result of the absence or non-observance or application of rules and regulations) a tendency towards individualism inevitably surfaces within the institution or public body. This phenomenon creates fertile ground for the growth and development of characteristics which are inimical to institutional revival and development. These characteristics manifest themselves in the following manner:

1. “The small group mentality” or cronyism - a phenomenon that encourages the pursuit of group interest and agenda as opposed to those of institutional goals and objectives;
2. “The boss mentality” – when allegiance and loyalty to ‘the boss’ take precedence over loyalty to the vision and values of the organization; and
3. “The hedonistic mentality” – when the dominant preoccupation of the employee is the pursuit and acquisition of material and financial gain.

The non-adoption and application of rules and regulations in any institution or public body inevitably leads not only to the decay of the institution but to its ultimate death. The accomplishment of the mission of the Civil Service requires the maintenance of an appropriate governance and regulatory environment capable of instilling a work-ethic culture that stimulates productivity, proficiency, commitment, discipline and integrity. The General Orders constituting the Conditions of Service governing the conduct, performance and activities of civil servants, is the major instrument used by Government to achieve this objective.

In our review of the validity, relevance and appropriateness of the existing General Orders, developed by the Colonial Government, and substantially maintained since, we examined the subject from two fundamental perspectives;

- i. General fundamental weaknesses and deficiencies, and
- ii. Weaknesses and anomalies in specific provisions.

5.1.1 GENERAL FUNDAMENTAL WEAKNESSES AND DEFICIENCIES

An in-depth examination of the General Orders reveals five fundamental weaknesses:

a. Although most of the rules and regulations governing recruitment, promotion, training, leave entitlement, conduct and discipline are still, in most cases relevant, valid and appropriate in relation to the mission of the Public Service and the development objectives of Government, the following fundamental weaknesses and deficiencies were identified:

- i. The absence of a carefully designed structure or mechanism to effectively and regularly oversee and monitor consistent compliance with the prescribed rules and regulations,
- ii. The dismal and pervasive lack of awareness and familiarity with the rules and regulations,
- iii. The absence of consistent enforcement and compliance with the rules and regulation,
- iv. Lack of precision, clarity and simplicity in the presentation of contents, and
- v. Conflicts and contradictions with the provisions of some other legal and regulatory instruments on the same issues and subjects.

In several Francophone and Commonwealth countries, a central administrative structure or inspectorate exists to monitor the regular

enforcement of rules, regulations and standards of performance and the practice has enhanced efficiency, productivity and discipline in the public service of these countries.

In The Gambia, this supervision and monitoring function legitimately falls within the purview of the Public Service Commission. Section 174 (1) and (2) of the 1997 Constitution of The Gambia stipulates that “The Public Service Commission shall have supervisory and regulatory powers to make provisions for the overall management and efficiency of the public service”. In reality however, regular monitoring of standards of performance, conduct and behaviours, as required by legally sanctioned rules and regulations are not being effectively performed by the Public Service Commission or its supporting or administrative organ – the Personnel Management Office.

Our investigations and findings reveal a glaring structural vacuum, which erodes surveillance and monitoring of the functions and performance of the Public Service. The 1997 Constitution explicitly stipulates in sections 168 that “ (1)The President acting in accordance with the advice of the Public Service Commission, shall appoint a person holding an office in the Public Service on permanent terms to be the Head of the Civil Service. The Head of the Civil Service shall be the competent authority for the Civil Service”.

In point of fact, this function is being performed by the Secretary General, although sub-section (2) of Section 168 of the Constitution clearly states that “The Head of the Civil Service shall not hold any other office of profit or emolument in the service of The Gambia”. It

would therefore appear that the combination of the posts of Secretary General and of Head of the Civil Service in one person contravenes this section of the Constitution. The separation of the office of Head of the Civil Service from that of Secretary General will not only dispel the problems caused by inadequate supervision and monitoring but will also facilitate concentration on the challenges facing the Public Service and the enforcement of legally sanctioned rules and regulations.

- b. Another fundamental weakness identified is the absence of a knowledge-promotion and proficiency enhancement mechanism, which shall make it mandatory for civil servants of all categories to compete for the acquisition of improved skills and competencies. During the pre-independence period, the regular organization of the **Efficiency and Proficiency Bar Examinations** was institutionalized, and the results significantly enhanced efficiency and proficiency. Civil servants of all categories in the professional, technical and administrative cadres were periodically required to sit to examination to prove their knowledge, skills and acquaintance with the legal and regulatory instruments of the Civil Service including the General Orders, Financial Instructions and Government administrative procedures and processes.

Success in these examinations was a major determinant of promotion, advanced training and progress in career development. In addition, competitive examinations were also conducted to determine admission to the Civil Service in general and to the administrative class in particular. These examinations helped to impart knowledge and enhance the attributes of competition, discipline, motivation,

commitment, the pursuit of excellence and continuous professional growth and development. A revival of the Efficiency and Proficiency Bar Examinations, and that of admission into the Civil Service and the administrative cadre, would ensure that civil servants are acquainted with all the rules and regulations governing their work and therefore improve application and implementation of the legal and regulatory instruments of the Public Service. In the past, these instruments were considered by civil servants to be manifestation of the rule of law and their strict adherence and application were mandatory. Our findings are that civil servants nowadays have no incentive and display very little interest in familiarizing themselves with the contents of the legal and regulatory instruments of the Public Service.

- c. A third weakness identified is the absence of the continuous utilization and implementation of an effective performance appraisal mechanism that guarantees;
 - i. objective assessment of performance and conduct;
 - ii. offer of reward and incentives for creditable and outstanding service; and
 - iii. the imposition of sanctions for poor performance and improper conduct.

The General Orders make provisions for annual preparation and submission of appraisal and evaluation reports for all civil servants. In point of fact, implementation of appraisal procedure requirements is virtually non-existent in most Ministries. Discussions confirmed that appraisal forms are seldom completed and for all intents and purposes, virtually exert very little influence in the training,

promotion and career development of the regular civil servant. In a few Ministries, it was confirmed to us that staff appraisals are periodically completed as a ritual, but assessment is very subjective and the results are seldom utilized for reward or sanction purposes. It was encouraging to observe that in one Ministry performance appraisal is institutionalized and regular staff evaluation is facilitated by availability of work programmes related to tasks, clearly defined in the Ministry's Strategic Plan.

Performance appraisal is a critical activity in human resource management, and its objective is to provide an accurate picture of an employee's performance.

Performance appraisal has several benefits and advantages, which the service is currently being denied.

1. It facilitates performance improvement. Performance feedback allows the employee, the supervisor and the head of Department to intervene with appropriate actions to improve performance.
2. It helps decision-makers to objectively determine who shall receive pay rise, promotion or training.
3. Performance feedback guides the process employed for career planning and development.
4. It helps to discover weaknesses in job design and job performance.
5. It facilitates avoidance of discrimination. Accurate performance appraisals that actually measure job-related performance dispel problems of discrimination and favouritism in an organization.

6. Finally it helps to identify external challenges and is sometimes influenced by factors outside the work environment, such as family, financial, health or other personal matters.

If such influences are uncovered through appraisal, supervisors and heads of departments may be able to provide assistance.

In view of these advantages, it is extremely important that the Public Service Commission, in collaboration with the Personnel Management Office, take appropriate steps to:

- a. ensure regular annual completion of appraisal forms and;
- b. ensure that effective action is taken on results of appraisal, as clearly provided in the General Orders.

It was encouraging to learn that the Personnel Management Office has recently circulated a revised performance appraisal system for close examination by the senior management cadre.

It is expected that the feedback generated will lead to the adoption and implementation of an effective, transparent and performance-based appraisal system, the results of which will be objectively utilized for sanction or reward. We examined the appraisal instrument being studied and found it essentially objective and innovative and provided inputs to improve it. We recommend that the Public Service Commission reviews and approves the final appraisal instruments.

d. A fourth fundamental weakness is the need to maintain impartiality and to avoid political influences and patronage, which seriously undermine the core values and objectives that the Rules and Regulations of the Public Service seek to achieve. The supervision of the overall management of the Public Service is a responsibility that constitutionally devolves upon the Public Service Commission, and failure to comply with this requirement has been one of the main root-causes of the existing malaise, insecurity and attrition in the Public Service. A strengthened Public Service Commission, answerable directly to the President and the National Assembly, will help to minimize political influence and patronage. In all the Ministries visited, copious examples were furnished of erosion of discipline and performance standards as a result of political patronage and influences.

The examples include:

- i. Frequent use of the office of the Ombudsman to circumvent legitimate disciplinary measures imposed on junior staff by the Public Service Commission. This institution does not seem to serve any purpose that is not already being provided by the Public Service Commission.

- ii. Appointment and postings of senior administrative staff without due compliance with established procedures rules and regulations.
- iii. Non-utilization of the provisions of the Schemes of Service in recruitment, promotion and training for career development.
- iv Lack of consultation with constitutionally established bodies, particularly the Public Service Commission in the appointment, retirement and dismissal of public servants.

Our investigation revealed that the Schemes of Service which were carefully designed and adopted by the Personnel Management Office, after a process of lengthy consultation with competent authorities have virtually been put in abeyance. The Schemes of Service were designed to rationalize recruitment and appointment, to dispel subjectivity and favouritism to enhance professionalism and to ensure that staff appointed possesses the level of qualifications and experience stipulated for the post.

Adherence to the Schemes ensures maintenance of standards, elimination of political patronage and avoidance of “putting square pegs in round holes”. We strongly recommend that the Public Service Commission in collaboration with the Personnel Management Office should take the necessary measures to ensure strict adherence to the provisions of the Scheme in matters of appointment, promotion and training.

5. A fifth weakness is lack of precision, clarity and simplicity in language and presentation. The result is that provisions are at times the

subject of different interpretations and this creates conflicts, contradictions and confusion. If the General Orders are to be fully understood and applied, they have to be presented in simple, clear and unambiguous language. The final report will significantly improve the form and style of presentation.

5.1.2 WEAKNESSES AND ANOMALIES IN SPECIFIC PROVISIONS

Following a careful evaluation of the specific provisions of the rules and conditions provided by the General Orders, we submit the following observation and suggestions:

- 1.** The term “General Orders” is archaic, colonial and uninspiring and does not exist in the language of modern human resource management specialists. Our first observation therefore is that there is a need to use a more explicit and inspiring term, consistent with the norms of modern human resource management. Consequently we propose that the term “General Orders” should be changed to **“Public Service Rules”**.
- 2.** We observe that the language used in several provisions is obsolete, unrefined and not sufficiently explicit. The Conditions of Service for staff of public bodies and organizations should be precise, clear, simple and easily digestible. Although most of the provisions are still valid, relevant and applicable, we have revised some of them to conform to modern examples of “Best Practices”.
- 3.** The authority responsible for formulating, reviewing and updating the General Orders should be clearly defined. In recent years, the Office of the Secretary General and that of the Personnel

Management Office have made additions to and amendments of General Orders.

In our view, this function should be performed by the Public Service Commission (in collaboration with Personnel Management Office), which has the legal responsibility as provided by the 1997 Constitution, to formulate General Orders and to ensure strict adherence to its provisions.

5. We recommend that G.O. 01101 be amended to include “The Public Service”.
6. We recommend that G.O. 02107 be amended to read: *“All appointments shall be subject to a probationary period of one year. Confirmation of appointment shall be subject to a satisfactory appraisal report on the officer’s performance and conduct; such reports shall be submitted at the end of the probationary period”*.
7. We recommend the following additional General Order 02107 (a) to read; **“After confirmation of appointment the officer’s performance and conduct shall be annually evaluated through the regular completion of an appropriate performance appraisal instrument which shall be submitted by the Head of Department or Permanent Secretary to the Public Service Commission for appropriate action.”**
8. We recommend the following additional General Order 02102 (a) to read: **“To maintain high standards of efficiency and proficiency in the service there shall be admission examinations for entry to the Civil Service”**.

9. We recommend that G.O 03105 should be revised to read: *“An officer wishing to belong to an organization which has both political and other objectives and is uncertain whether the organization is a political organization within the meaning of G.O. 03104, should seek advice from the Public Service Commission”*.
10. G.O. 03106 to 03109 has been repealed by Section 170 (2) of the Constitution which reads: **“Any person who holds an office in a public service who wishes to contest and election for a political office shall, prior to nomination as a candidate, obtain one year’s leave of absence without pay, which leave shall not unreasonably be refused”**, and
- (3) which reads “If a person who has obtained leave of absence in accordance with this section is elected to a political office, he or she shall immediately resign from his or her office in the Public Service and, if he or she fails to do so, he or she shall be removed from such office”**.
11. We recommend that “The Authority of the Secretary General in G.O.03111 be changed to “The Authority of the Head of the Civil Service”.
12. We recommend that G.O 04111 be amended to read: *“Any confirmed female employee of the Civil Service who is pregnant shall consult a Medical Officer for a report on her expected date of confinement and on production of a satisfactory medical certificate,*

shall be entitled to a maternity leave with full salary for a period of three months calculated to cover six weeks before and six weeks after confinement”.

13. The allowances quoted in the General Orders are no longer applicable and have been revised following the issue of Circular No: EMC 192/342/01 (81) dated 6th October, 2006.
14. We recommend that G.O 6206 be revised to read:
“The Public Service Commission in consultation with the Permanent Secretary, Personnel Management Office, shall require a public officer who is the recipient of a scholarship or is provided with training at Government expense, to enter into a Surety Bond covering the cost of such scholarship or training.”
15. We recommend that G.O 08103 C. be revised to read: *“This Order only applies to confirmed officers, who by definition, are in the permanent and pensionable establishment”.*
16. We recommend that G.O 11204 under the term “Use of Government Quarters and Government Buildings” in Chapter 11 be revised to read: *“Every Government department shall maintain an up-to-date Assets Inventory List incorporating all Government equipment, furniture and other material resources”.*
17. We also recommend the following additional G.O. 11204 (a) to read: *“The Permanent Secretary, Personnel Management Office, shall every six months arrange an inspection of all Government assets, equipment, furniture and other material resources and*

submit a copy of the findings to the Head of the Civil Service and the Chairman of the Public Service Commission”.

5.2 ADDITIONAL PROVISIONS AND AMENDMENTS

5.2.1 MEDICAL, DENTAL AND OPTICAL TREATMENT

- i. A medical insurance scheme for all permanent employees.**
- ii. All permanent employees be entitled to medical, dental and optical treatment in Government Hospitals or recognized Clinics approved under the Government Medical Insurance Scheme.**
- iii. The Government to be responsible for the payment of 60% of medical, dental and optical charge.**
- iv. Dental and optical treatment to attract a maximum of D6000 in any one year.**
- v. In the event of emergency medical, dental and optical treatment being received by any permanent and pensionable employee from any registered Medical Practitioner, the medical expenses to be paid by the Government upon presentation of certified receipts.**
- vi. Where a permanent and pensionable employee falls ill while abroad on official assignment, the cost of treatment shall be borne by Government upon the presentation of the necessary medical report.**

5.2.2 MEDICAL TREATMENT OUTSIDE THE GAMBIA

Where a Medical Board recommends that an employee and/or his/her family requires treatment not available in The Gambia,

the expenses of such treatment and passages shall be borne by Government in accordance with the medical insurance scheme.

5.2.3 MEDICAL TREATMENT FOR DEPENDANTS

The spouse and three dependents of an employee registered under the Medical Insurance Scheme shall receive treatment in accordance with the terms and conditions of the scheme.

5.2.4 PATERNITY LEAVE

Any confirmed male employee whose spouse has delivered shall be entitled to a paternity leave with full salary for a period of five working days and such leave shall not count against an employee's annual leave entitlement.

5.2.5 ORIENTATION AND INDUCTION OF NEW EMPLOYEES

- i.* All new employees shall be required to undergo inter alia an intensive induction course on the legal and regulatory instruments of the Civil Service and any other relevant subjects drawn up as part of their curricula by the Management Development Institute (MDI).**
- ii.* All new employees shall, upon assumption of duty be provided with all the legal and regulatory instruments of the public service and shall be required to familiarize themselves with them.**

5.2.6 APPOINTMENT, PROMOTION AND DISCIPLINE OF TEACHERS

In order to accelerate the process of appointment, promotion and discipline of teachers, the Public Service Commission shall delegate to the Permanent Secretary, Ministry of Basic and Secondary Education, the authority to make appointments and promotions and enforce discipline of teachers in Grades 6 to 8. This function shall be executed through a properly constituted committee.

The Public Service Commission shall from time to time monitor the execution of the delegated authority.

5.2.7 REVIEW OF ALLOWANCES

The Permanent Secretary, Personnel Management Office, shall be responsible for the issue of all circulars approved by Cabinet related to payment and revision of all categories of allowances.

5.2.8 MAINTENANCE OF LEAVE ROSTERS

Although the General Orders make provisions for Leave Entitlements of all categories of staff, and the maintenance of leave roster to ensure regular consumption of annual leave by all staff, in practice, many civil servants, particularly those at the top echelon, do not take regular annual leave on the alleged grounds “exigencies of service” the result is accumulation of leave for very long duration seems to be the order of the day. This practice is unhealthy and counter-productive. The regular consumption of annual leave entitlements does not only energize and “Recharge the batteries” of civil servants, it also provide opportunities for subordinate staff to execute high levels of functions and responsibilities, which enhances personal development and facilitates succession planning.

We consequently recommend the inclusion of the following provisions in the General Orders. “Leave Entitlements shall be taken by all Civil Servants on an annual basis. Failure to abide by this requirement automatically leads to forfeiture of earned leave, unless deferment is considered in the interest of the Public Service, and is permitted by the Office of the President.

All Departments and Ministries shall maintain Annual Leave Rosters for all staff, which shall be strictly adhered to”.

5.3 THE PUBLIC SERVICE COMMISSION REGULATIONS

The Public Service Commission Regulations, 1994 are generally relevant and valid but some of the provisions contradict those of the other Legal and/or Regulatory instruments governing the functioning of the Public Service. The creation of a plethora of legal and/or regulatory instruments always constitutes fertile ground for the emergence of ambiguities, conflicts, confusion and contradictions in the interpretation and application of these instruments. This is exactly the case with the legal and regulatory instruments of the Public Service.

Since 1990, at least six legal instruments were enacted on different subjects pertaining to the public service:

1. The Public Service Act 1991,
2. The Public Service Commission Regulations -1994
3. The General Orders as amended by several legal notices and administrative circulars,
4. The Financial Instructions,
5. The Gambia Foreign Service Regulations -2002,

6. The Government Budget Management and Accountability Act 2004

The consequences of the multiplicity of legal and regulatory instruments and administrative circulars include the following:

1. Conflicts in the understanding and interpretation of the provisions of the instruments,
2. Duplication of provisions on similar subjects and issues,
3. Difficulties in enforcement of the provisions, and
4. Possible violation of provisions in the Constitution.

The following examples illustrate this point;

Section 174 (1) of the Constitution states “The Public Service Commission shall have power (1) to make provisions for the overall management and efficiency of the public service”. Similarly Section 3 (2) in Part II of the Public Service Act 1991 states “The Minister shall be responsible for the general supervision of the public service, including the management and training policies of the service” and Section 4 (1) in Part II of the same Act stipulates “The Secretary General as Head of the Public Service shall have general responsibility for the efficient functioning of the Public Service”. There is consequently a dire need to resolve the conflict in roles and responsibilities in relation to the overall supervision and management of the public service. The separation of the office of Head of the Public Service from that of the Secretary General as

required under Section 168 (2) of the Constitution will help to dispel the existing confusions.

The Public Service Commission Regulation 14(a) in Part III states “The Public Service Commission shall consider and decide all matters relating to the selection of public officers to undergo training courses (excluding awards made by the Scholarships Advisory Board) related to departmental posts”, whereas Section 5(2) (c) in Part II of the Public Service Act 1991, states “The Permanent Secretary, Personnel Management Office, shall be responsible for public service training and staff development policies and implementation” and G.O. 06105 in Section (1) of the General Orders stipulates “The selection of officers for scholarship and training awards will be:

- a. In the case of scholarships the Ministry of Education Scholarship Advisory Board Advisory Committee;
- b. In all other cases, by the Head of Department in consultation with the Permanent Secretary, Personnel Management Office”.

In our findings officers for overseas training are currently selected by the Permanent Secretary, Personnel Management Office, without the involvement or approval of the Public Service Commission. On many occasions, the Public Service Commission is only invited to grant approval of study leave with salary after the officers concerned had already left the country and are on their studies abroad.

Finally, on the subject of probationary periods for new appointments, there is contradiction in the provisions of Regulation 27 (1) in Part IV of the Public Service Commission Regulations which states that: “On first appointment to a pensionable post, a public officer shall hold his appointment on probation for three years, and any promotion may be made subject to a trial period of such length as the Commission may specify”, whereas the provisions of G.O 02107 are that: “Initial appointments will be subject to a probationary period, normally of one year. Confirmation of appointment will be subject to satisfactory reports on the officer’s performance and conduct submitted to the appointing authority by the Permanent Secretary, Head of Department, or immediate supervisor as may be appropriate. These reports will be submitted at intervals of six months and nine months after the officer’s date of appointment”. We have sought to resolve these ambiguities, conflicts, confusion and contradictions in our review and update of the said instruments.

Furthermore, although the whole contents of the Public Service Commission Regulations are relevant and valid we have, following discussion with various cadres, made certain recommendations in line with the renown management scholar, Peter Drucker, who in his book *IN SEARCH OF EXCELLENCE*, advised and declared that: “Employees’ abilities and skills make performances possible, but motivation makes them choose to use those abilities and skills to accomplish results. Without adequate motivation, even the most capable person performs poorly. Motivation energizes, directs and sustains human behaviour.” We agree with these findings and also

support the view of Abram Maslow in his theory of THE HIERARCHY OF HUMAN NEEDS that “motivation is not only enhanced by financial and economic incentives but by acts of appreciation, recognition and encouragement of self-esteem and self-fulfilment.” In this regard we recommend that to foster the attributes of dedication and patriotic service, there should be special awards and decorations to civil servants whose performances are outstanding and innovative. This practice has produced positive results in Malaysia and other Commonwealth countries, and we recommend that it be emulated in The Gambia and the necessary provisions of the Public Service Commission Regulations to include the following awards:

1. “The Civil Service Excellent Service Award” to civil servants who, in the execution of their duties, functions and application of the legal and regulatory instruments of the Public Service and/or such other criteria to be carefully determined.
2. “The Civil Service Special Certificate of Appreciation” to civil servants who have contributed significantly to the implementation of Governments development programmes through;
 - a. achievement of targets set in their work programmes
 - b. innovations in the work methods of their Departments and Ministries for enhancing efficiency and productivity.
3. “The Civil Service Accelerated Promotion and Double Increments Award” to civil servants who achieve distinction in the final examinations of the MDI management courses.
4. “The President’s Distinguished Civil Service Award” to civil servants for proven competence, efficiency, good conduct, discipline and integrity in the execution of their duties.

5.4 THE CODE OF CONDUCT

We examined the content of this regulatory instrument very carefully and also benefited from the views and suggestions expressed by senior management. In general the Code embodies the major attributes and values that a responsible public servant should possess and the work culture that he or she should embrace. In its present form, it is considered too broad and general. We have reviewed the document and guided by “Best Practices” elsewhere and the codes of conduct in selected organizations in The Gambia, we have produced a revised version, which is more precise and specific. In general the values are anchored on virtues embraced by the civil services of many commonwealth countries – virtues which particularly emphasized:-

- (i) the value of time;
- (ii) the success of perseverance;
- (iii) the pleasure of working;
- (iv) the dignity of simplicity;
- (v) the worth of one’s character;
- (vi) the power of kindness;
- (vii) the influence of example;
- (viii) the obligations of duty;
- (ix) the wisdom of economy;
- (x) the virtue of patience;
- (xi) the improvement of talent; and
- (xii) the joy of originating.

5.5 THE FOREIGN SERVICE REGULATIONS

This document is designed to cater for the special needs of the Diplomatic Service and conforms to practices and standards prevalent in other countries. The document was the product of extensive consultations with the Heads and Staff of the diplomatic missions of The Gambia, and also received the endorsement and approval of Cabinet but unlike regulations properly defined; this document is not founded on any statutory authority. Furthermore there is only one Gambia Civil Service which is adequately defined in the Constitution. Therefore this document should be more properly called “The Diplomatic Service Rules”.