

INNOCENT UNTIL PROVEN GUILTY?

“Innocent until proven guilty” this common legal maxim is not just for popular TV series and human rights activists; its practical applicability is there to safeguard the basic human rights of accused persons. Accused persons in Tanzania like in most parts of the world are presumed innocent until proven guilty and as such have a number of rights which I highlight below.

WHO IS AN ACCUSED PERSON?

This is the person accused of committing a criminal offense.

WHAT ARE THE RIGHTS OF AN ACCUSED PERSON AT THE TIME OF ARREST?

The following are some of the rights of an accused person at the time of arrest;

The arrested person has the rights not to be subjected to more restraint than necessary.

When arresting, a police officer should not use more force or subject the arrested person to greater indignity.

The arrested person has the right to be informed of the offense of which he/she is arrested of.

DOES THE POLICE OFFICER HAVE THE RIGHT OF ENTRY WHEN ENFORCING AN ARREST?

A police officer with a warrant of arrest or a person with an authority to issue an arrest have a right of entry in a dwelling house or any place in order to effect an arrest if he/she has a reason to believe that the person to be arrested has entered into that place.

HOW LONG DOES THE ACCUSED PERSON NEED TO STAY IN POLICE CUSTODY IN TANZANIA?

When a person has been arrested without a warrant of arrest for an offense other than an offence punishable by death, the officer in charge of the police station shall bring him/ her before appropriate court within twenty-four (hours) after he/she was taken into custody.

When arrested for an offense punishable by death, then he shall be brought before the court as soon as practicable.

Where any person is arrested under a warrant of arrest, he/she shall be brought before a Court as soon as practicable.

HOW LONG DOES THE ARRESTED PERSON NEED TO BE INTERVIEWED?

Where a person is in lawful custody, the period available for interviewing in respect of an offence is four hours commencing at the time when he/ she was taken under restraints.

However, the period of interviewing any person under lawfully custody in respect of an offence may be extended for the reason below.

If it appears to the police officer in charge of investigating the offence, that there is reasonable cause, that it is necessary that the person be further interviewed, then the period of interview may be extended for a period not exceeding eight hours (8 hrs) upon an application to a Magistrate.

A police officer shall not frivolously or vexatious extend the basic period available for interviewing a person, but any person in respect of whose interview the basic period is extended, may petition for damages or compensations against frivolous or vexatious extension of the basic period, and shall be required to prove it.

WHAT ARE GENERAL RIGHTS OF AN ACCUSED PERSON IN TANZANIA?

1. Right to be informed of the grounds of arrest.
2. Right to be arrested without reasonable force
3. Right to bail for bailable offences.
4. Right to legal representation.
5. Right to be heard.
6. Right to be taken to court after restrains.
7. Right to protection of their dignity.
8. Right to medical treatment, advice or assistance in respect of illness or injury.
9. Upon request by a person who is under restraint, has a right to communicate with a lawyer, a relative or friend of his/her choice.

THE LAWS APPLIED

- The criminal Procedure Act, Cap 20[2002 R.E]

- Police Force and Auxiliary Service Act

BY; **ESTHER JULIUS MOSHA**

Associate/ Advocate Markel & Co Advocate

Samora Avenue, Twiga House, Dar es Salaam, Mobile:+255 782 397 270

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