

ANNEX 1

Kenya Gazette Supplement No.59

8th September, 1995

(Legislative Supplement No.42)

Legal Notice No. 306

THE NON-GOVERNMENTAL ORGANIZATIONS

CO-ORDINATION ACT

(No. 19 of 1990)

IN EXERCISE of the powers conferred by section 24 of the Non-Governmental Organization Co-ordination Act, 1990, the Council, with the approval of the Board, makes the following Code: -

THE NON-GOVERNMENTAL ORGANIZATIONS COUNCIL

CODE OF CONDUCT, 1995

PART I - PRELIMINARY

1. This Code may be cited as the non-Governmental Organizations Council Code of Conduct, 1995.

Citation.

2. (1) This Code shall be read and interpreted in conjunction with the Rules and Regulations.

Interpretation.

(2) In this Code, unless the context otherwise requires - "advocate" has the meaning assigned to it in section 2 of the Advocates Act;

Cap.16.

"Board of Trustees" means the Board of Trustees of the Council established under the Rules and Regulations;

"Chief Executive Officer" means the chief executive officer of the Council;

"Code" means the Non-Governmental Organizations Council Code of Conduct, 1995;

"Committee" means the Regulatory Committee of the Council established by regulation 15;

"Co-operation" means solidarity, participation and collaboration within the Council and with other organizations;

"Executive Committee" means the Executive Committee of the Council established under the Rules and Regulations;

"Council" means the National Council of Non-Governmental Organizations established under section 23 of the Act;

“General Assembly” means the General Assembly of the Council established under the Rules and Regulations;

“justice” means the achievement of social equity, equality and harmony;

“organization” means a Non-Governmental Organization within the meaning of section 2 of the Act;

“probity” means the exercise of responsibility, accountability, trustworthiness and integrity;

“prudence” means linking action, knowledge, foresight and reflection;

“respect” means the recognition of the right, dignity and potentiality of others;

“Rules and Regulations” means the Rules and Regulations of the Council approved by the General Assembly on the 15th July, 1993;

“Secretary” means the Secretary of the Committee;

“self-regulation” means the exercise of autonomy, observance of stability and the practice of adaptability; and

“service” means the spirit of voluntariness, benevolence and care.

PART II- APPLICATION OF CODE

Application.

3. This Code is an expression of the ethos of every registered organization and shall apply and be observed by all registered organizations.

Acquaintance
with the Code.

4. Every registered organization shall make itself acquainted with the provisions of this Code.

Organizations to
keep
copies of Code.

5. Every registered organization shall ensure that at least one copy of this Code is kept in its registered office for use by its officials.

Non-compliance
with Code to
constitute
breach of Code.

6. An organization which fails to comply with any provisions of this Code is in breach of the Code and liable to regulatory action under Part V.

PART III - CONDUCT OF ORGANIZATIONS

Observance
of cardinal
values
Probity

7. In the performance of its functions, every registered organization shall observe the cardinal values of probity, self-regulation, justice, service, co-operation, prudence and respect.

8. In the observance of the probity, an organization shall -

- (a) perform its duties incorruptibly;
- (b) not abuse any privilege availed to it;
- (c) not solicit or accept gifts, rewards or any advantage, whether pecuniary or otherwise, from any person as an inducement to do anything in its official capacity or to grant any favour to any person;
- (d) at all times avoid any conflict between official and private interests;
- (e) immediately upon -
 - (i) being wound up; or
 - (ii) being subject to winding-up or bankruptcy proceedings; or
 - (iii) being subject of a receiving order; or
 - (iv) presenting a creditor's petition to a court, report such fact in writing to the Chief Executive Officer;
- (f) be honest and impartial in all dealings with people.

9. In the observance of self-regulation, an organization

self- regulation

shall-

- (a) strive for self-determination;
- (b) appraise and evaluate its conduct periodically;
- (c) be open to learning and change; and
- (d) be self-reliant and vigilant.

10. In the observance of justice, an organization shall -

Justice.

- (a) recognize and uphold the rights of all and particularly of the disadvantaged;
- (b) practice fairness and equality in all its operations;
- (c) ensure equality of opportunity for all regardless of, ethnic background, gender, religion or creed;
- (d) ensure that its actions are need-oriented, impartial and just;
- (e) adhere to and uphold the rule of law.

11. In the observance of service, an organization shall--

Service.

- (a) render service to all who fall within its mandate and particularly the needy;
- (b) strive to improve the service rendered to people;
- (c) strive to fulfil unmet basic needs;
- (d) promote community organization and participation;
- (e) undertake public education and information dissemination;
- (f) foster opportunities for those being served to influence

both the type and delivery of service.

12. In the observance of co-operation, an organization

shall-

(a) share information and experiences;

co-operation

(b) encourage the sharing of activities and co-ordination
through participation;

(c) promote the sharing of resources with other
organizations;

(d) strive for unity, collaboration, reciprocity and team-
work;

(e) resolve conflicts amicably;

(f) avoid unproductive duplication of activities.

Prudence

13. In the observance of prudence, an organization shall-

- (a) take well-informed and judicious decisions;
- (b) give priority to careful and good management practices;
- (c) encourage innovation and creativity and act with care and precision;
- (d) contribute towards a healthy human and natural environment;
- (e) exercise and encourage stewardship in the management or use of resources.

Respect

.14. In the observance of respect, an organization shall -

- (a) observe the integrity, national security and sovereignty of the Republic of Kenya;
- (b) be prompt and courteous in all communication with the public;
- (c) uphold the rights of others;
- (d) trust other organizations and act in good faith and good-will;
- (e) observe the national and international policies of the Government of the Republic of Kenya.

PART IV - THE REGULATORY COMMITTEE

Establish-
ment of the
Committee

15. (1) There is established a committee to be known as the Regulatory Committee which shall consist of-

(a) the chairperson of the Executive Committee who shall be the chairperson;

(b) an advocate of not less than ten years standing elected from amongst three persons nominated by the Law Society of Kenya;

(c) one person elected from amongst the members of the Board of Trustees;

(d) four persons elected from amongst the members present at a General Assembly;

(e) the Chief Executive Officer who shall be an ex officio member and secretary to the committee.

(2) During the absence for any reason of any of its elected members, the Committee may nominate any person qualified for election as a member to act as a temporary member.

(3) During the absence for any reason of the chairperson or the secretary, the Committee shall elect one of its members to act as temporary chairperson or secretary as the case may be.

(4) During the absence for any reason of the advocate, the Committee shall, after consultations with the chairman for the

16. (1) The Committee shall sit as a committee of either five or seven members, and shall require the presence of the advocate at all its sittings.

(2) The Chairperson of the Executive Committee shall preside at all meetings of the Committee at which he is present.

(3) Any member of the Committee who has or may have an interest in any matter brought before the Committee shall declare such interest to the secretary prior to deliberations on the matter and shall not participate in such deliberations in any manner.

(4) For the purpose of any application or complaint or matter brought before the Committee under this Code, the Committee may take evidence on oath or affirmation, and any party to the proceedings may take out summons to give evidence or produce documents, but no person shall be compelled under such summons to produce any document which he could not legally be compelled to produce at the trial of a suit.

(5) The Committee may make rules for regulating the making to it and the hearing and determination by it of applications and complaints under this Code.

17. The Regulatory Committee shall--

(a) promote and maintain adherence to the Rules and Regulations;

(b) review the Code from time to time and propose any necessary amendments to the General Assembly;

(c) define and review the criteria for support by Council of applications by potential members for registration under the Act;

Meetings
and
Procedure
of
Committee

Functions
Of
Committee

(d) define and review the criteria for support by the Council of applications by its members with regard to work permits, duties and tariffs;

(e) compile reports for the General Assembly recommending cancellation or suspension of certificates of registration of organizations under section 16 of the Act;

(f) consider and determine any application, complaint or matter brought before it under this Code, the Rules and Regulations or the Act;

(g) carry out such functions as are authorized by this Code, the Rules and Regulations or by any other written law;

(h) carry out such additional functions as the General Assembly may, from time to time direct.

PART V - REGULATION OF ORGANIZATIONS

Jurisdiction
of
Committee
Complaints
against
organizations

18. Every registered organization shall be subject to the jurisdiction of

19. (1) A complaint against a registered organization for breach of this Code may be made to the Committee by any person.

(2) A complaint under subparagraph (1) shall be in writing and shall set out in detail the particulars of the alleged breach.

Procedure
for dealing
with
complaints

20. (1) Subject to subparagraph (2), where a complaint is made under this Part, the Committee shall give the organization against which the complaint is made an opportunity to appear before it and shall furnish it with a copy of the complaint and of any evidence in support thereof and shall give it an opportunity of inspecting any relevant documents, not less than seven days before the date fixed for the hearing:

Provided that where in the opinion of the Committee the complaint does not disclose any prima facie breach of this Code, the Committee may at any stage of the proceedings dismiss the complaint without requiring the organization to answer any allegations made against it and without hearing the complaint.

(2) The Committee may at any stage of the proceedings refer any complaint before it to the General Assembly for decision.

(3) All complaints before the Committee shall be heard in camera.

(4) After hearing the complaint and the organization to whom it relates, if it wishes to be heard, and considering the evidence adduced, the Committee may order that the complaint be dismissed or, if of the opinion that a breach of the Code on the part of the organization has been established, the Committee may-

(a) order that the organization be admonished; or

(b) recommend to the Board that the certificate of registration of the organization be cancelled or suspended under section 16 of the Act.

(5) Where the person directly responsible for a breach of the Code is a member, employee or agent of the organization, the Committee may recommend to the General Assembly that the organization take appropriate action against the person and notify the Council of the action taken.

(6) Where a person responsible for a breach of the Code holds or is eligible to hold office in the Council, the Committee may order that the person be removed or barred from holding office in the Council for a period not exceeding five years.

(7) On the termination of the hearing of a complaint, the Committee shall embody its findings and recommendations in the form of a report which shall be delivered to Executive Committee, together with the record of the evidence taken and any documents put in evidence.

21. (1) An organization aggrieved by a decision of the Committee under this Part may, within thirty days of the decision, appeal against the decision of the first General Assembly following the decision, by giving notice of the appeal to the Chief Executive Officer.

(2) A notice under subparagraph (1) shall be accompanied by a memorandum setting out the grounds of appeal and shall be submitted to the Chief Executive Officer within fourteen days of the date on which the Committee's decision is communicated to the aggrieved organization.

(3) The General Assembly, after considering the organization's submission, the report of the Committee and the memorandum of appeal, and having heard the parties and any witnesses they may wish to call, and after taking any further evidence, if it thinks fit so to do, may -

(a) refer the report back to the Committee with the directions for its findings on any specified point; or

(b) confirm, set aside or vary any recommendation made by the Committee or substitute therefore such order as it may think fit.

(4) If upon hearing the appeal the General Assembly is equally divided, the complaint shall stand dismissed as against the organization.

(5) An appeal under this paragraph shall suspend the effect or stay the execution of the order appealed against until the appeal is finally determined.

(6) Subject to subparagraph (4), the decision of the General Assembly shall be final.

(7) Every recommendation or order by the Committee and every order by the General Assembly, as the case may be, shall be filed on a file to be kept for that purpose, by the Chief Executive Officer who shall also cause a certified copy of the recommendation or order to be delivered to the organization to which it relates or be sent by registered post to its last address

Powers of
the General
Assembly.

22. Notwithstanding the power of the Committee under this part, the General Assembly may, of its own motion, where an organization is in breach of the Code, either independently of any decision taken by the Committee or in addition to or in substitution of such decision -

- (a) impose a fine on the organization; or
- (b) recommend to the Board that the certificate of registration of the organization be suspended or cancelled.

Signification
of
documents

23. (1) Every report and every recommendation or order made by the Committee under this Part shall be signified under the hand of the Chairman and any report, recommendation or order so signified shall be judicially and officially noticed as such unless and until the contrary is proved.

(2) Subject to subparagraph (1), all rules, certificates, notices and other documents made or issued by the Committee may be signified under the hand of the Secretary or such other person as the Committee may authorize for that purpose.

Made on 17th December 1994.

E. ODEMBO,

Chairperson,

National Council of

Non-Governmental Organizations.

Approved on the 17th December, 1994.

J. K. ETEMESI

Chairman,

Non-Governmental Organizations

Co-ordination Board.