

A GUIDE TO THE NGO CODE OF CONDUCT, 1995



The National Council of NGOs

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CODE OF CONDUCT 1992

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PREFACE

It is always asserted that ignorance of the law is no defence. In the same vein, ignorance by any NGO of the Code of Conduct, 1995, is no defence. However, the principle of "access to justice" demands that law is not only physically accessible but that it is in a form that can be easily understood by all.

Section 24 of the Non-governmental Organisations (NGO) Coordination Act, 1990 provides that the National Council of NGOs shall develop and adopt a Code of Conduct and such other regulations to facilitate self-regulation by NGOs. In line with this legal provision, the National Council of NGOs formulated a Code of Conduct, which is an expression of the values of every registered organisation. The values in the Code are Probity, Self-regulation, Justice, Service, Cooperation, Prudence and Respect.

This publication has been developed with an aim of ensuring that the Code of Conduct is accessible to the NGOs and the general public not only in substance but also in form. It is our hope that the booklet shall simplify the NGO Code of Conduct and, as a consequence, create consciousness within the NGO sector of the cardinal values provided for in the NGO Code of Conduct.

We would wish to register our deep gratitude to everyone who made the publication of this book possible, and especially Friedrich Ebert Stiftung, without whose assistance the publication of this book would not have been possible. Special thanks to the book review team comprised of Collins Odote, George Muhoro, Karuti Kanyinga, Haron Ndubi, Wycliffe Mutsune, David Isoe, Pius Achola, Samson Ondiek, George Odete, Tom Mogeni, Samuel Tororei, Hubbie Hussein Al-Haji, Pamela Kola and Orié Rogo Manduli, whose contribution significantly enriched the booklet.

SITUATING THE NGO CODE OF CONDUCT, 1995

What is Regulation?

Regulation is the act of defining the things that may or may not be done by facilitating, guiding, directing or controlling according to certain rules. It refers to the limitations placed on what the actor can or cannot do and how they can do it.

In every society, there are rules to govern behaviour. These rules can be written or unwritten. From the smallest (family) unit of every society to the largest (state) unit, regulation is seen at work in our day-to-day affairs. Indeed these rules govern our lives from the cradle to the grave.

There are two types of regulation: state regulation and self-regulation. State regulation is broadly divided into criminal law and civil law. Criminal law regulates human conduct by making certain forms of conduct – such as murder, rape and burglary – illegal. Civil law regulates conduct such as breach of contract, trespass, desertion of a spouse, neglect of children, adultery and defamation by defining their nature and providing remedies for them.

The term self-regulation is normally used when any other sector, apart from the government perceives the need to order and manage itself so as to protect and promote its ethical values, to enhance the sector's reputation and to level the playing field. Self-regulation does not replace existing legal obligations. It supplements the law, by deterring conduct that would be universally considered undesirable, but that, for



other reasons, the civil or criminal law does not prohibit, such as cheating in sports contests, or refusing to network and share information with other organizations.

The Benefits of Self-regulation

Self-regulation has several advantages: -

- It brings the collective judgment and experience of a sector to solve issues where the government may find it difficult to define and apply stated rules.
- Regulation designed and implemented by sector participants is broadly appreciated and promotes a greater level of compliance.
- Self-regulation protects the independence of the sector, from the state and other members of society who do not belong to that sector.
- It establishes ethical standards and the manner of disciplining those who do not abide by the established standards. This serves to protect the sectors' reputation as well as to assure the beneficiaries that the sector members possess a minimum level of quality and competence.
- It enables an organization to achieve its own mission and vision.

These advantages can be realised by formulating and enforcing a Code of Conduct.

What is a Code of Conduct?

In simple terms, a Code of Conduct is a set of rules that binds people who work in a certain sector to behave in a certain principled way.

A Code of Conduct provides a yardstick to determine how well an organization is fulfilling its obligations to those



who benefit from its programs, to contributors, and to the public.

It is an expression of the commitment of a certain group to a set of ideals. A Code recognizes the rights of all members of society, institutions and individuals, and seeks to ensure that these rights are respected. It does so by barring certain conduct, describing how certain things ought to be done and providing penalties for failure to comply with the established rules.

The Kenyan NGO Code of Conduct

The Kenyan NGO Code of Conduct is a set of norms, principles and values developed by Kenyan NGOs to standardise the conduct, action and behaviour of NGOs.

Upon adoption by members in the first General Assembly, it was gazetted on 8th September 1995. Gazettement means that the Code is now part of the Kenyan law and not a mere "gentleman's agreement".

The Kenyan NGO Code has two parts. The first sets out the standard of conduct that NGOs must observe. The second part deals with the mechanisms and procedures for ensuring that NGOs comply with those values and norms. A detailed explanation of the values and how the Code is to be enforced is provided for in the latter pages. Before delving into the substance of this Code, it is essential that one understands and appreciates the history of the Code.

Where Did the Code Come From?

In 1990 the parliament of Kenya passed the NGO Coordination Act. The formulation of the Act brought about a realization that there was a general lack of information,

transparency and unity of purpose in activities both in the NGO sector and government.

NGOs felt that there was need for legislation to create an enabling environment for people-centred NGO activities and a need on the part of NGOs to explain to legislators and the public at large, the role of the voluntary sector.

As a result, several NGOs decided to form a coalition and address the issue of an enabling legal framework within which NGOs and local communities had a larger role in self-regulation and articulation of their activities. The coalition was called the NGO Network.

The NGO Network, the Office of the President and the Attorney General began a series of consultations. Subsequently several amendments to the NGO Act were passed and towards the end of 1992, NGOs began to register under the Act. The NGO Act set up two legal bodies, one being the NGO Coordination Board, with the NGO Bureau as its secretariat, and the other being the National Council of NGOs (NGO Council).

The NGO Coordination Board is the government body responsible for the registration of NGOs and facilitation and coordination of NGO work. The Board interacts with NGOs through the NGO Bureau and its activities are funded by the government.

The NGO Council is a self-regulating body with no government representation on it. All registered NGOs are automatic members of the Council. The Council elects an Executive Committee of 15 persons, 7 of whom also sit on the NGO Coordination Board. The NGO Council's administrative arm is the NGO Council Secretariat, which

is self-financed through membership dues, donations from the large NGO members and donors.

Registered NGOs, as a first act of their legal existence, began the process of developing and adopting an NGO Code of Conduct that would reflect the principles by which they would undertake to abide by. A number of meetings and consultations of members took place before it was finalized. Out of this process, a set of core values was agreed upon which form the basis of the Code of Conduct.



NGO CODE OF CONDUCT VALUES

All NGOs must comply with applicable state laws. The NGO Code of Conduct values build on that foundation, and go a step further. These values describe how NGOs should act in all their operations. Seven (7) Guiding Principles are provided in the Code. They are:

1. Probity;
2. Self-regulation;
3. Justice;
4. Service;
5. Cooperation;
6. Prudence; and
7. Respect.

These values are intended to describe how the most well managed and responsibly governed NGO should, and do, operate.

Probity

Probity refers to whole-hearted honesty and virtue, and especially that which excludes all injustice that might favour oneself.

The Code requires NGOs, in the exercise of probity, to perform their duties honestly and fairly; not to abuse any privilege

so as to do anything in their official capacity or so as to grant any favour to any person; to always avoid any conflict between official and private interests and to immediately report to the Chief Executive Officer of the NGO Council in writing when the NGO is insolvent (unable to meet its financial obligations) or is being wound up (putting everything in order before dissolving an NGO).



Favour of oneself is a disservice to the community

Example

Okuba (NGO) won \$ 2 million grant from the Global Fund against Sleeping Sickness to combat sleeping sickness amongst the youth of Ololo. Records at the office of the Registrar of Business Names show that Okuba was initially registered as a business and strangely, the organization got an official NGO registration a month before applying for funding to the Global Fund. The organization presented its proposal as a Network of NGOs, which has since been discovered not to be true.

Okuba has implemented a community youth intervention project. Kenya shillings 30 million was disbursed to erect metal or concrete murals with a budget of KSh. 65,000 per mural. The organization erected cheap board structures, which have all faded by the sun or have been washed away by the rain and their images useless to the communities they were intended for.

Program officers of Okuba have been forced on numerous occasions to sign salary vouchers and write blank receipts to acknowledge fake payments. The money disbursed from the Global Fund enabled Okuba's director to buy his personal Pajero and two houses.

The organization advertised for 130 vacancies for the Global Fund Project and only 50 personnel were recruited. The salary of the other positions is received and utilised by Okuba's director.

Senior members of staff of Okuba and the Board own all the supplier companies where tenders are concocted for the purpose of transferring the funds from the official account to personal accounts using fictitious delivery of goods and services.

Okuba has received the massive funding from the global fund despite the fact that it lacks the capacity and the commitment to implement the project.

In how many instances is Okuba guilty of lack of probity?

Self-regulation

Self-regulation means taking commands from one authoritative source, the self, and rejecting all attempts to override one's independence. It entails making the final decisions about what one should do and having the liberty to act upon the decisions that one has made. It represents the firmness of character and the ability to change to fit changed circumstances.

The Code requires NGOs, in the exercise of self-regulation, to strive for personal and political independence; to appraise and evaluate their conduct periodically; to be open to learning and change; and to be self-reliant and vigilant.



The only force behind one's decision should be self

Example

Nona was registered as an NGO under the NGO Coordination Act in 2001. Nona's Board of Management is comprised of four Members of Parliament, two of which are Ministers.

Nona has scheduled to hold its elections in two weeks time. However, before the elections are held, the government orders Nona to call off the elections and furnish the government with audited accounts, a true copy of the organization's constitution and a list of its officers and members, within one month.

The National Council of NGOs, orders Nona to be vigilant and carry out the elections as scheduled. Nona has been furnishing the NGO Bureau and the NGO Council with the relevant documentation, since 2001, as provided in the NGO Coordination Act.

Oba, the donor that funds 90% of Nona's activities, orders Nona to fully comply with the order of the government. Oba adds that failure to comply would result in an immediate withdrawal of donor funding.

In response to the problem, Nona decides to call off the elections and furnish the government with the stated documents. One of the members of the organization, as a result, files a complaint against the organization for failure to regulate itself.

Is Nona exercising self-regulation?

Justice

Justice can widely be interpreted to mean anything that measures up to truth and reality. It is a fair representation of facts. It means making available to everyone that which is his or her due.

The Code requires NGOs, in the exercise of justice, to recognize and uphold the rights of all and particularly of the disadvantaged; practice fairness and equality of opportunity for all regardless of nationality, ethnic background, gender, religion or creed; ensure that an organization's actions are need-oriented, impartial and just and to adhere to and uphold the rule of law.



Recognition of the Rights of the Disadvantaged

Example

Kid International was registered so as to help children. It has initiated programmes that are designed to help children in Kibera to get basic education. Primary education is free in Kenya, so it has informed the parents of the concerned children that these children shall only receive support once they start their secondary or tertiary education.

The parents of the concerned children have filed a complaint against the said NGO claiming that it is in contravention of the Code of Conduct value of Justice. Their arguments are that this NGO came to them when their children were so young and promised that it shall get a sponsor to financially support those children. Since then Kid International has been taking pictures of these children every year and ensuring regular communication between the child and the sponsor. All communication is through Kid International's office; Kid International has not disclosed the address of the sponsors or the amount that a sponsor has given for a particular child.

A lot of money is being spent taking the parents of these children for seminars. The parents feel this is a waste of resources because they are old and what they require is for their children to be assisted, not them. Kid International never consulted the children on what kind of tertiary education they would prefer. All children are being trained in dressmaking and carpentry and they not only do not have an interest in this kind of training but they feel it does not prepare them for the current market requirements. They would prefer to take courses in computers rather than carpentry and dressmaking. This has led to poor performance, absentism and an increase in the number of school drop outs.

The parents have been allowing Kid International to take pictures of their children on the hope that if they qualify for Secondary Education, Kid International shall meet the course fees. However, upon completion of primary education, Kid International requested the parents to enrol their children in Secondary schools without informing the parents of the amount of money that Kid International shall provide. Once the children were enrolled in schools requiring the payment of fees amounting to more than Kshs. 15,000, Kid International only gave the parents money ranging from Kshs. 3,000 to 6,000.

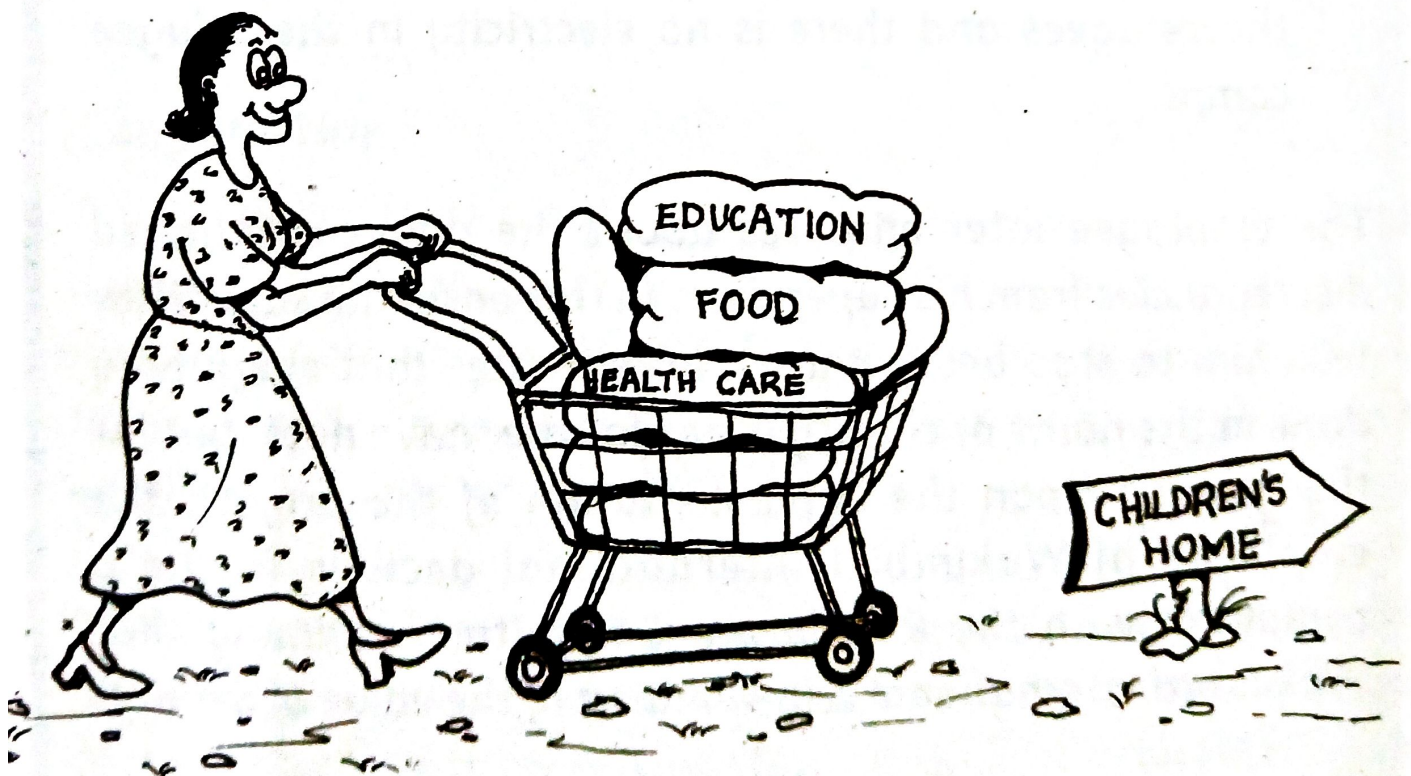
The parents are faced with the following dilemma; they cannot raise the remaining amount and they do not know how to communicate to their children that they cannot go to school anymore. The child has known for the last 8 years that it has a sponsor who shall cater for his/her secondary education. Enrolment to secondary schools has already taken place and thus it is hard to get a secondary school that pays low fees at such a late stage. As a result, the children are sent back home for non-payment of school fees.

Are the actions of this NGO just? What have they done wrong, if any?

Service

Service means the performance of labour for the benefit of another. It is a commitment to do kind and charitable work accompanied with the desire to promote the happiness of mankind. It denotes a high sense of responsibility driven by concern for the disadvantaged.

The Code requires NGOs, in the exercise of service, to strive to improve their service delivery; strive to fulfil unmet basic needs; promote community organisation and participation; educate the public; share information with the public; and foster opportunities for those being served to influence both the type and delivery of service.



Commitment and concern for the disadvantaged

Example

Wakimbizi International is an NGO working with refugees in Kenya. The NGO has drafted a work plan and budget on how it is going to utilize its resources for the benefit of the refugees in Kenya. One of the workers of the NGO scrutinizes the work plan and budget and realizes the following discrepancies: -

1. 99% of the money is to be utilized for logistics and the payment of salary, per diem and benefits for international staff.
2. The international staff are coming to Kenya to do simple tasks that Kenyans have an expertise in and can effectively discharge.
3. 1% of the amount is to assist refugees
4. The products to be bought by the 1 % are products that have no benefit to the refugees. For example, part of the money shall be utilised to buy electrical refrigerators for the refugees and there is no electricity in the refugee camps.

The employee later enquires about the above-mentioned discrepancies from his supervisor. In response, the supervisor tells him to stop being naïve. He reiterates that everything done in the name of charity is not for the 'have nots' but for the 'haves.' Upon the implementation of the project, the employee of Wakimbizi International decides to file a complaint with the Regulatory Committee, claiming that Wakimbizi International is in violation of the value of Service.

What do you think the Regulatory Committee will decide?



Two hands are better than one

Example

A program was designed by Abazungu (NGO) to provide credit facilities to poor people in Kenya. Immediately after the NGO was registered, 1000 people registered for credit facilities. These 1000 people never defaulted for six months in paying their monthly membership fees. After the lapse of six months, Abazungu issued 50,000 Kenya Shillings to all the 1,000 applicants. 950 of the applicants issued with the loan defaulted payment immediately after receiving the money and they changed their physical addresses. Abazungu automatically became insolvent and was at the verge of being de-registered when Gat International came to its rescue.

Gat International is an International NGO that has worked closely with national NGOs in Kenya, in the micro-finance field, for the last ten years. Gat International trains and builds the capacity of micro-finance NGOs so that they can effectively discharge their mission and vision. Gat International first explained to Abazungu how Abazungu failed to exercise prudence and offered valuable solutions to solve the current problem.

Gat International introduced Abazungu to a network of NGOs in the micro-finance field and together they shared experiences. In addition, Gat International helped Abazungu recover some of its money from the persons who had received loans. Gat International provided financial support to Abazungu until Abazungu reached a moment when it could sustain itself.

Through the network, Abazungu realised that there were many micro-enterprise NGOs working in its area of operation and, as a consequence, Abazungu shifted its area of operation from Obo to Tuna. Currently, Abazungu is still providing credit facilities to the poor but from a better and more informed position.

Prudence

A prudent institution is one that acts after careful consideration and with caution. It is managed wisely by people who are concerned about the consequences of what they say and do.

The Code requires NGOs, in the exercise of prudence, to take well-informed and sensible decisions; give priority to careful and good management practices; encourage innovation and creativity; act with care and precision; contribute towards a healthy human and natural environment; and exercise and encourage wise leadership in the management and use of resources.

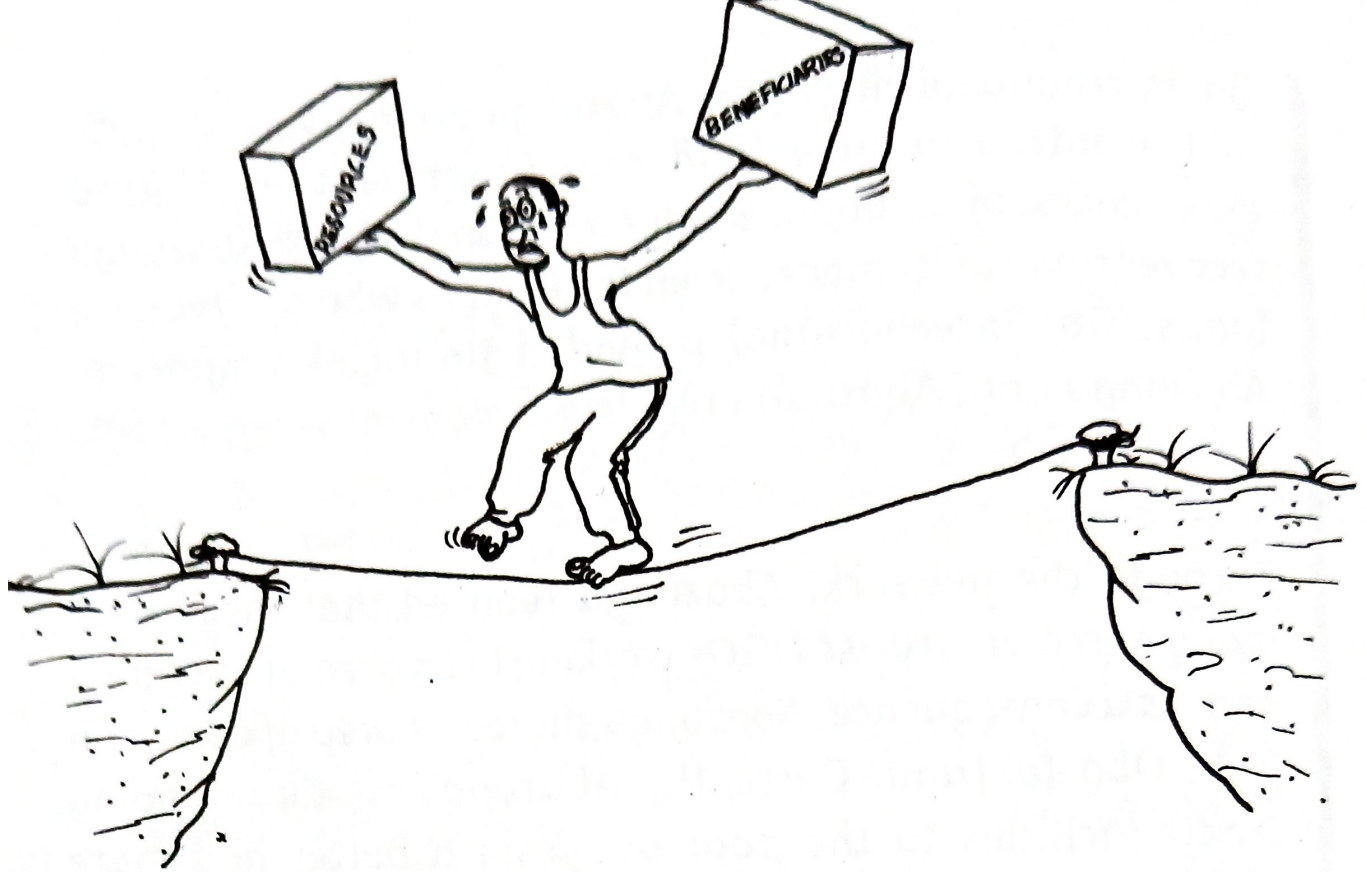
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Walking on a tight rope depicts lack of prudence

Example

Boma International has been working closely for the last two months with Tena community. Tena community has been using pit latrines. A recent research by Boma International indicates that the source of waterborne diseases affecting the children in Tena community is due to the use of pit latrines. Boma International intends to build three toilets in each of the 200 homesteads. This exercise would involve a lot of capital.

Before Boma International constructs the toilets, it calls all the people of Tena community for a Baraza. During the Baraza, the cause of the waterborne diseases is clearly explained to

the Tena community. The Tena inhabitants are shocked that the cause of the current cholera outbreak was the use of pit latrines. Thereafter, Boma International asks the Tena people what they think would be the solution to their problem. All of them state that they do not know.

Thereafter, Amina, the program officer of Boma International suggests the building of toilets. The Tena people laugh and inform Amina that so far, three NGOs have built toilets in their homesteads. Currently, each homestead has six toilets, all clean and unused. Amina enquires why the toilets were never utilised and the community inform her that it is because their customs do not allow them to build toilets facing Mount Akiba where they worship their God. They further state that the previous NGOs built the toilets without enquiring from the people what is acceptable within their customs and whether they had toilets in their compounds.

After a long discussion, it was decided that there is a need to change the direction of the doors of the current toilets so that they no longer face Mount Akiba. As a consequence, Boma International used less money to implement its project and the outbreak of cholera was contained.

Respect

Respect means the recognition of the worth, rights and potentiality of others. It is holding and treating one another in high esteem.

The Code requires NGOs, in the exercise of respect, to observe the honour, national security, power and independence of the Republic of Kenya; be prompt and courteous in all

communication with the public; uphold the rights of others; trust other organisations and act in good faith and goodwill; and observe the national and international policies of the Government and the Republic of Kenya.



Respect for the Republic of Kenya

Example

Ukweli is an international relief organization. It has an office in a country known as Koma. It is involved in providing food and medication to the civilians in Koma. Koma has many diamond mines but has remained poor because of the frequent civil wars and the illegal exportation of the diamonds out of the country to Golgota. Ukweli was founded in Golgota and receives all its funding for the relief activities from Golgota.

In 2003, Justice International carried a research in respect to the activities of Ukweli. The results of the research are as follows: -

1. Ukweli has been instrumental in providing relief to the people of Koma and as a result it is highly respected and given a right to operate in all the regions.
2. Deeper studies reveal that Ukweli is providing relief services to mainly the rebels and only a little percentage of the assistance reaches the unarmed civilians, especially the women and the children.
3. Ukweli is one of the active participants and benefactors in the controversial diamond chain that ensures that diamonds are smuggled out of Koma.
4. Ukweli supplies arms under the guise of relief products, in concealed containers marked 'relief food and medicine'.
5. Ukweli has been instrumental in funding most of the rebel activities in the areas that are rich in diamonds. Despite the mass killing of innocent people by the rebels, Ukweli has increased its support for the rebels.

Ukweli's activities are in violation of the Code of Conduct value of respect. They endanger the honour, national security, power and independence of Koma. They do not uphold the rights of civilians in Koma and are in violation of the national policies of Koma and international policies.



Disrespect of a country's security, honour and independence

ENFORCING THE CODE

The second part of the Code is concerned with the implementation of the values, including, the establishment of the Regulatory Committee, its functions and powers, the procedure for dealing with complaints and the Appeal structure.

Two bodies are central to the Code's implementation: (a) the **General Assembly** (comprised of all registered NGOs), which is the supreme decision-making body; and (b) the **Regulatory Committee**, which is ultimately answerable to the General Assembly for the exercise of its functions.

Composition of the Committee

The Regulatory Committee is currently composed of: -

1. The Chairperson of the NGO Council's Executive Committee, who is also the chairperson of the Regulatory Committee.
2. Three advocates with not less than 10 years standing elected by the Law Society of Kenya
3. One person elected from the members of the Board of Trustees of the NGO Council
4. The Chief Executive Officer of the National Council of NGOs, who is the Secretary of the Regulatory Committee.
5. Four persons elected from the members present at a General Assembly.
6. The Legal and Regulatory Affairs Officer of the National Council of NGOs.

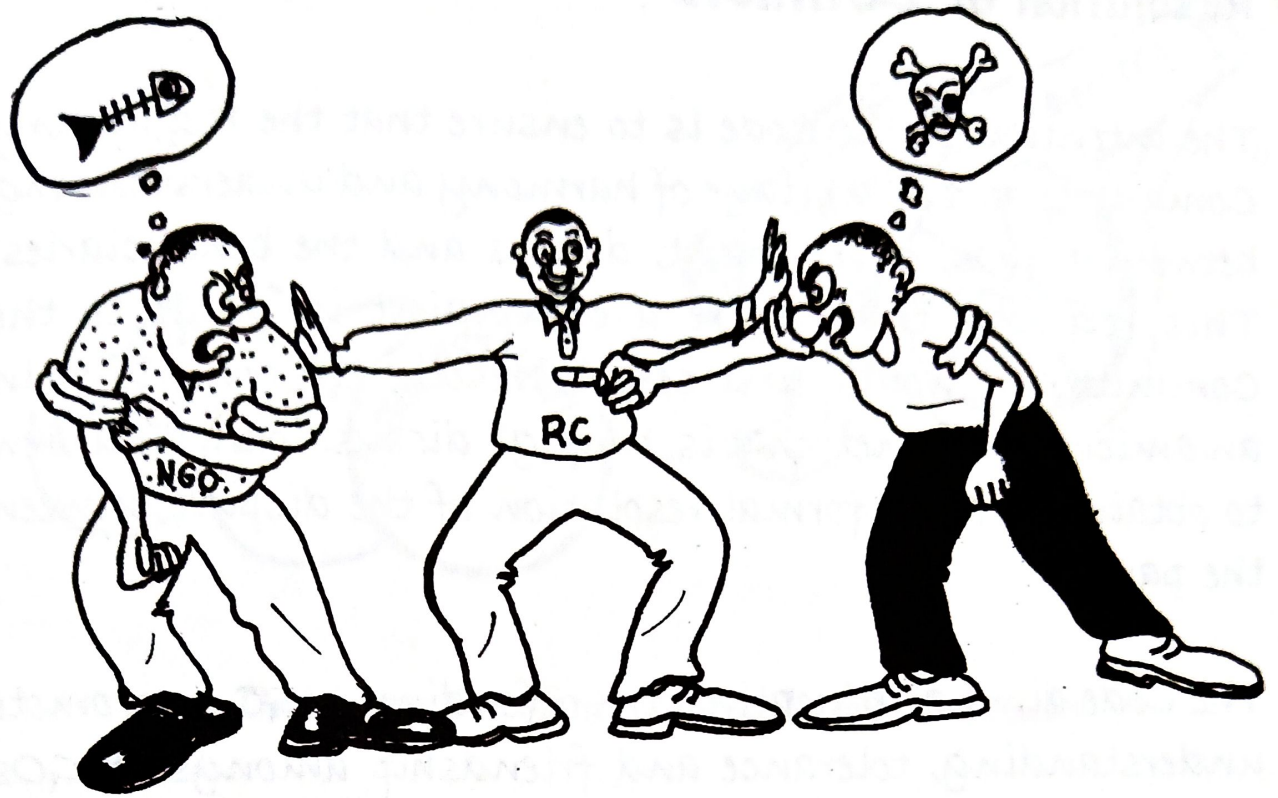


Any person can file a complaint

Who Can Complain?

According to the Code, any person may lodge a complaint against a registered NGO for a violation of the Code. This includes any individual member of an NGO, a member of the public, an employee of an NGO or a person whom the NGO is giving services to such as a refugee, an internally displaced person or an orphan.

In legal terms, some organizations are considered as "legal persons". This means that a company, a government, a diplomatic mission of a foreign country, the police force, or another NGO can also complain to the Regulatory Committee if they feel there is a violation of the Code by an NGO. The Regulatory Committee cannot listen to complaints against organizations that are not registered as NGOs under the NGO Coordination Act, even if they are lodged by NGOs.



*The Regulatory Committee is the bridge
between NGOs and the public*

Functions of the Committee

The functions of the Committee are: -

1. To act as a keeper and protector of the Code of Conduct.
2. To hear complaints involving violations of the Code and make a decision.
3. To review violations of the Code, independent of whether or not, any specific petition or complaint has been made to it.
4. To create among the NGOs an awareness of the Code of Conduct.
5. To review the Code of Conduct

Resolution of Conflicts

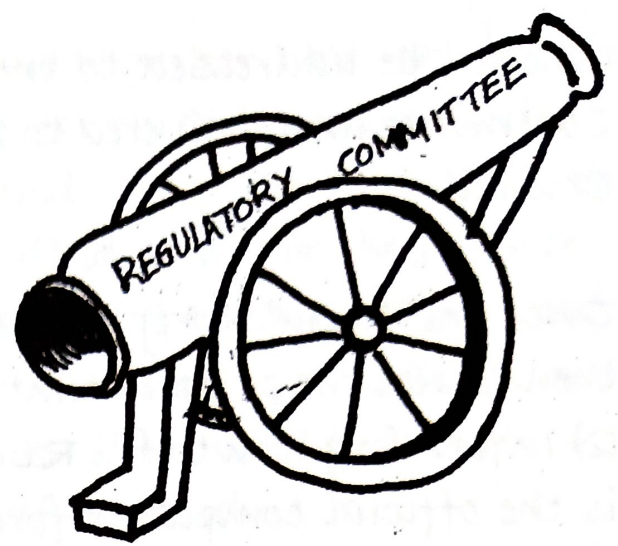
The intention of the Code is to ensure that the Regulatory Committee acts as a bridge of harmony and understanding between NGOs, government, donors and the beneficiaries. This requires that where a complaint is made to the Committee, it would first seek to resolve the complaint in an amicable manner; that is, through discussion with a view to obtaining an informal resolution of the dispute between the parties.

The Code aims at educating the offending NGO to promote understanding, tolerance and friendship amongst NGOs and the beneficiary community.

Powers of the Committee

The Regulatory Committee has powers to: -

1. Summon NGOs and others parties to the appear before it
2. Hear complaints
3. Dismiss complaints
4. Issue a warning to the organization
5. Recommend that the certificate of registration of the offending organization be cancelled or suspended
6. Recommend that an organization take appropriate action against a member, employee or agent of the organisation.
7. Remove or bar a person from holding office in the NGO Council for not more than 5 years.



De-registration of an NGO is always a last resort

How Do You Register a **Complaint?**

The Code applies to all the NGOs registered in Kenya. It also applies to NGO officials and individuals or groups who act for and/or on behalf of the NGOs. The party who files the complaint is known as the **complainant**. The NGO or any person acting on its behalf against whom the complaint is lodged is known as the **respondent**.

In the event of any violation of the rights held by any member of the public, a complaint can be made to the Regulatory Committee. This Committee will receive the written complaint, listen to the verbal evidence of both parties and make a ruling.

A complaint should be made to the Regulatory Committee in writing. The complaint should set out in detail all the allegations of a violation of the Code of Conduct in clear and precise language. Any available evidence supporting the complaint should be included. The written complaint

All complaints before the Committee are heard in camera (in private) and evidence is taken on oath or by affirmation. The complainant and the respondent each have a choice to be represented by an advocate, if they so wish. If a party is represented by an advocate, the advocate is required to communicate this information in writing, to the Regulatory Committee, before the hearing date.

Regulations for the Hearings

- ➔ Hearings are private. This means that only the parties to the claim, their advocates and witnesses can attend the hearing sessions.
- ➔ Hearings commence at nine o'clock in the morning and end at six o'clock in the evening.
- ➔ Submissions to the Regulatory Committee may be by written memoranda or oral, audio, visual or in any other form.
- ➔ A person presenting his or her case is expected to present himself or herself with civility and decorum and shall respect other people's rights.
- ➔ No person presenting his or her case may use language that is insulting or provocative to any person or group of persons on the basis of gender, race, age, disability, religion, and political affiliations.
- ➔ The official languages of the Regulatory Committee are English and Kiswahili.

Procedure at the Hearing

The normal sequence of events at the hearing is as follows

- ➔ The complainant opens his or her case by making an

opening statement - outlining his or her reasons for the complaint and the witnesses to be called to support the complaint.

- ➔ The Regulatory Committee calls the complainant's witnesses in turn and examines them (asks them questions).
- ➔ The respondent cross-examines the complainant's witnesses in turn. Cross-examination means to question closely so as to test the truth of the information that has already been given to the Committee.
- ➔ The respondent then makes his or her opening statements, setting out his or her defence and puts forward his or her counter-complaint, if there is one. A counter-complaint is made by the respondent against the complainant to offset or reduce the original amount claimed. It may also be made to show that the complainant is equally in breach of the Code of Conduct.
- ➔ The Regulatory Committee calls the respondent's witnesses in turn and examines them and then offers them for cross-examination by the complainant.
- ➔ The respondent then closes his or her case by reviewing his or her evidence and makes his or her final submissions, often written.
- ➔ The complainant also closes his or her case by reviewing his or her evidence and makes his or her final submissions, often written.
- ➔ The Regulatory Committee closes the proceedings and gives notice of when the judgment shall be delivered.
- ➔ During the entire proceeding, the Regulatory Committee can ask questions with an aim of establishing the truth.



The Committee's decision can be challenged

Appeals

An organisation aggrieved by a decision of the Regulatory Committee may, appeal against the decision to the General Assembly. An appeal is made by writing a letter to the Chief Executive Officer of the NGO Council informing him or her of the appeal. Once this letter is written, an appeal has been automatically lodged with the General Assembly.

A memorandum setting out the reasons for the appeal should accompany this letter. The documents should be submitted

to the Chief Executive Officer within 14 days from the date on which the Committee's decision is communicated to the aggrieved organisation.

During the hearing of the appeal, the aggrieved party has the right to call witnesses in support of his appeal. The

quorum of the General Assembly is 50 delegates (that is 50 registered NGOs that have paid all their annual subscription rates when and on their due date). After the General Assembly hears the appeal, it may do any of the following things:

1. It may refer the report back to the Committee with the directions for its findings on any specified point;
2. It may confirm, dismiss or vary any recommendation made by the Committee; or
3. It may replace the Committee's order, as it may consider fit.

After hearing the appeal and voting, if the General Assembly is equally divided, (that is to say if the members who are of the opinion that the organization in question is guilty and members who are of the opinion that it is not guilty are equal in number) the complaint shall be dismissed.

Once an appeal is filed, it automatically suspends the effect of the Committee's decision or stops the execution of the order appealed against until the appeal is determined.

The decision of the General Assembly on the appeal is final. This means it cannot be challenged in court or by any except when the aggrieved person or organization complains to the High Court on the basis of the fairness of the procedure through which the General Assembly reached its decision and whether the power exercised by the Regulatory Committee or the General Assembly is in accordance to the Kenyan constitution (also known as judicial review). For example if the General Assembly does not afford him or her a hearing or arrives at its decision by considering irrelevant facts, such as political affiliation, tribe and so on.

CONCLUSION

The public and private benefits of self-regulation are many. The NGO sector has engaged in self-regulation to enhance its reputation for fair and honest service by establishing ethical standards and disciplining those who do not abide by the standards.

Self-regulation often may deter conduct that would be universally considered undesirable, but that civil or criminal law does not prohibit. As a result, self-regulation may provide the only meaningful deterrent. From a public policy perspective, self-regulation is more prompt, flexible, and effective than government regulation. This forms the basis upon which the Kenya NGO Code of Conduct was formulated. All NGOs are required not only to abide by the Code of Conduct but to also keep a copy of the Code in their offices for reference by their officials and staff.



The National Council of NGOs

(Established under the NGO Code of Conduct, Legal Notice No. 306, 1995)

Please Quote Our Reference When Replying:.....

DATE:.....

To :

.....

.....

Dear.....

RE: COMPLAINT AGAINST

Your letter ofreceived

on.....refers.

To enable the NGO Council's Regulatory Committee to adequately process the complaint, we would request you to complete the attached COMPLAINT Form and return it in quadruplet (4 copies will all the annextures to the complaint).

We look forward to hearing from you in due course. Please quote our above reference in all future correspondence concerning this matter and note also to send Ksh 1000/= being processing fee in line with the last paragraph of REGFORM: 2 (ATTACHED).

Yours faithfully,
For and on behalf of
the Regulatory Committee

LEGAL AND REGULATORY AFFAIRS OFFICER



The National Council of NGOs

(Established under the NGO Code of Conduct, Legal Notice No. 306, 1995)

Please Quote Our Reference When Replying:.....

COMPLAINT FORM

To The **Secretary**
The Regulatory Committee
National Council of NGOs

Date.....

I/Weof P.O. Box

....., Tel. NO.....

Fax No..... E-mail.....

HEREBY LODGE a complaint against.....

of.....

of.....NGO

P.O.Box.....Fax.....

E-Mail..... Telephone

upon the following grounds and reasons:-

1.
2.
3.
4.
5.

The above complaint arises as a result of the NGOs breach of Regulation of the NGO Council's Code of Conduct (Legal Notice No. 306 of 1995).

We hereby request the Regulatory Committee of the NGO Council to investigate the breach and take appropriate action.

Enclosed herewith are four (4) copies of the supporting documentation with all the necessary annexure in quadruplets. (As deemed appropriate, the documents you send to us may be made available to the NGO/person(s) complained against). Enclosed herewith is our processing fee of Kshs. 1,000/= (Money Order/Postal Order) if cash, please hand deliver or send by registered mail. Cheques are not accepted unless the necessary commission is included.

Yours faithfully,

Signature.....

Full Name

Please Quote Our Reference When Replying:.....

DATE:

To: _____

NOTIFICATION OF COMPLAINT

TAKE NOTICE that a Complaint for breach of Regulations of the NGO Council's Code of Conduct (Legal Notice No. 306 of 1995) has been lodged against you by _____ Copies of the complaint and supporting documentation are enclosed herewith for your perusal, records and response.

In accordance with the rules of the NGO Council's Regulatory Committee, you are hereby called upon to file your defence in quadruplet (4 copies with all the annexures to the defence) with the Regulatory Committee, within fourteen (14) days from the date hereof, to enable the Regulatory Committee to list the case for hearing.

Please note that the Regulatory Committee will only respond to written memoranda and no verbal communication of any party's position will be entertained.

We look forward to receiving your appropriate response and full cooperation in getting the issues raised fully and completely dealt with.

Yours faithfully,
For and on behalf of
the Regulatory Committee

LEGAL AND REGULATORY AFFAIRS OFFICER