Important hints on the NGO Code of Conduct and NGOs Act No.24 of 2002 of Tanzania

A FEW NOTES ON THE NGO CODE OF CONDUCT, SELF-REGULATION AND LEGAL FRAMEWORK IN TANZANIA

Narration on efforts towards achieving NGOs self-regulation and coordination in Tanzania
Civil Society Development Consultants (CSDC)

Guide on NGO Code of Conduct, NGOs Act and Operational guidelines in Tanzania

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Foreword

The few notes on the NGO Code of Conduct, Self-regulation and Legal framework in Tanzania gives you a summary of the NGO policy formulation and Legislation process for NGOs in Tanzania which started in 1996 and what is the status now.

It also points NGOs to key self-regulatory and legislative issues that they ought to be conscious about. It also gives some hints on key government decisions in relation to NGO regulation and coordination starting with the reason for formulation of the policy and the subsequent Act.

At that time government said that it wanted to control the “proliferation of NGOs from 800 in 1994 to 3000 in 1996” and deal with gaps which existed in terms of control and coordination of NGO affairs and wanted to update the law governing NGO affairs which it said was archaic and obsolete.

The other factors mentioned by the government where the operational huddles among them the slow and bureaucratic registration process. According to the government “the above mentioned factors made NGO operational environment not to be conducive”.

The authors also touches and tries to give a balanced accountant of the legislation process, NGO self-regulation process and government coordination of NGOs over the last one and half decades.

The notes also fuse in the views from the government, donors and NGO sector actors and on the ground evidence regarding the NGO coordination, operational and legislation environment in Tanzania from 1996 to date.

To make the reader have a background to the NGOs quest for an enabling environment the author starts with an historical note on freedom of association and the regulation of societies and associations in Tanzania starting from the pre-independence to the current era.
About the author

This booklet has been written by Mr. Zaa Twalangeti a facilitator of effective Civil Society Organization (CSOs) mostly Non-governmental Organizations (NGOs) engagement in the development and political process of Tanzania, East African Community (EAC) and Southern African Development Community (SADC) for the last 20 years. Mr. Twalangeti Hold an Executive Masters of Business Administration in Management of Non-governmental Organizations.

The author has for the last 15 years worked with hundreds of small and emerging CSOs/NGO, CSO coalitions and networks at both the national and regional levels (EAC/SADC) orienting them to organizational development, organizational management and governance and resource mobilization skills and tactics.

Other areas that the author has facilitated CSO on have been self-assessment, advocacy, participatory skills and tactics, policy messaging, mass and political mobilization, relationship building among CSO, government and development partners and liaison with the above.

The author has also been an integral part in the development of various tools for capacity building of Tanzania CSOs, these include organizational self-assessment tools, the performance standards for CSOs, operational guidelines for NGOs and the Council of NGOs, the NGO Code of ethics, the NGO Policy and the NGO Act.

Other engagement which are more related to the theme of the guide done by the author have been providing technical support to a number of NGOs/CSO in understanding and abiding by the NGO Code of Conduct, the NGO Act and other regulatory and legislative rules and demands by government and other CSO regulatory and coordination agencies and bodies.
BACKGROUND

Pre-independence

The phenomenon and quest for the Tanzanian citizenry and more civil society groups to organise and associate dates back some seven decades ago, when the Tanganyika Territory African Civil Servants Association was formed. The aim of this association was to secure the welfare of the native civil servants. This was followed by the formation of the Tanganyika African Association (TAA) with an aim of promoting recreational and cultural affairs in the Africans. According to (Shivji 1986) the following two decades were relatively quiet due to the Second World War.

However, starting from the late 1940’s to the 1950’s there was a political upsurge, this was due to heightened human rights awareness at that time. The most significant changes were in 1954 when Mwalimu Kambarage Julius Nyerere who had just become the leader of TAA, formed an organisation called an association called Tanganyika African Union (TANU), which later spearheaded the process of fighting and secured Tanganyika’s independence.

In reaction to the growing mass movements and with a view of controlling the then rising nationalism, the colonial administration enacted a number of laws. Among them were the Trade Union Ordinance Cap.381 and Societies Ordinance Cap.337. For effective implementation and enforcement of the laws, the administration put in place the office of the registrar who was vested with supervisory powers, for all players in the civil society (voluntary/third sector).

The aim of these pieces of legislation was to curtail and control the activities of popular organisations, therefore, holders the positions of registrar where given discretionary powers. According to the Societies Ordinance of 1954 Cap.337, section 15 and 16, the registrar had powers to cancel or refuse registration on numerous grounds, without any avenue of recourse.

In actual terms the two pieces of legislation cited above where used to deal with the social movements and associations, which did not live up to the dictates of the colonial administration. The other authorities given discretionary powers were the Governor and the Minister responsible for home affairs, such powers where clearly stated in section 13 and 32 of the Societies Ordinance.

The Societies Ordinance further provided for the fusion of the Legislative, Executive and Judicial powers, which left the masses/ citizenry without a way out. The Societies Ordinance of 1954 was so set that it imposed heavy sanctions on the societies/organisation, which contravened it. People convicted under this Act could be imprisoned up to 7 years.

Tanzania NGO Regulatory and Legislative Framework (vi)
In case of an unlawful gathering not only did the law punish the organisers but also those who attended meeting or still the people whose premises were used to convene the meeting. Ironically, the Societies Ordinance defined an unlawful society as one declared or deemed to have been declared unlawful by the Governor.

**Post independence in the mono-party Tanzania**

The post independence era, which is also commonly known as the mono-party regime was characterised by heavy concentration of powers and authority in the Executive arm of the state, more so the President.

There was very little regard for the representative organs of the masses such as the legislature and courts, a factor, which diminished the prominence of these organs. According to constitutional scholars from near and fear, Tanzania had all the characteristic of an authoritarian state, in terms of a legal system within which the law was used by the state to coerce the citizens rather than confer rights upon them.

In regard to the operations of the civil society and the voluntary sector independent Tanzania had strong resemblance with the colonial regime. The reason being that the new government inherited all the laws and institutions, the most significant thing was the adaptation of the Societies Ordinance without any consideration of the underlying philosophy behind its formulation, which was “authoritarianism”.

The new regime further entrenched the somewhat authoritarian outlook under the pretext of fostering development in a young nation. “There is need to control such associations as mass movement, trade unions and political parties”, argued the new government. Just like preceding colonial regime, independent Tanganyika deliberately left out the Bill Of Rights when it made its constitutional amendments in the 1960’s. Political analysts have said that this regime was even more restrictive to free association than the colonial regime—in that it made it virtually impossible for civil society to organise or operate independently out of the state. The only non-state voluntary associations which where allowed to operate were charities, religious bodies and relief foundations, the reason being that these bodies were apolitical.

**Second phase regime**

For the first eight years the second phase regime of independent Tanganyika then Tanzania borrowed it approach to dealing with the Civil society and the NGO sector from the first phase government. It was only at the close of 1980’s at the demise of the communist block, when there was a greater push and enforcements of human rights that Tanzania forced by the western powers/donor become acceptable of “freely and self-organised NGOs and civil society bodies”. As has been mentioned above that the change was due to a global push for greater respect of human rights—and not governments’ genuine willingness to let the people organise themselves. As a control the second phase government maintained such restrictive pieces of legislation as Societies Ordinance.

The force field pressure of the global decision-makers the World Bank (WB), International Monetary Fund (IMF) and the shift in donor support to peoples own development initiatives made the second phase government, render a blind eye to the sprouting NGOs, note that the thinking was still that of the first phase government.

This was evidence by governments and NGOs sectors' mistrust and tag-off-war like relationship. At this time there was greater donor and development partners insistence on self led and participatory approaches to developed, afraid of the then declining donor funding to government, the government resolved to please the donors and development partners by making cosmetic changes to the systems and regulatory framework for Tanzania NGOs. This was the being of the now much criticised NGO policy formulation and legislation process.
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CHAPTER ONE
POLICY AND
POLICY PROCESS
What about the NGO Policy

Initially when the process of NGO policy was closed to only government officials NGOs led by Tanzania Association of NGOs (TANGO) run a campaign under the banners theme “Civil Society not happy at the way government is handling the NGO policy formulation process”.

The above mentioned campaign was based on a survey conducted by NGO Policy core-group which comprised TANGO, FEMACT coalition, Legal Human Rights Centre (LHRC), Tanzania Gender Networking Programme (TGNP), Haki Ardhi, Watoto Salama and Kuleana. The survey sought to understanding what the NGO sector’s thinking was about the NGO policy formulation and legislation process.

Following the core-group’s statement the donor community took government to task demanding that it shows how the NGOs were participating in the policy formulation process.

After a year of deliberation and NGO protests the government and the NGO agreed on an NGO policy which was anchored in the following three objectives:

1. Bring about better understanding of the dynamic of interaction between NGOs and their main institutional partners and to create an enabling mechanism to foster synergies with a view to achieve their development goals.

2. A better understanding and recognition among the Government and other institutional partners of the supportive role of NGOs in the country’s social and economic process.

3. To provide a clear definition of what NGOs are. The Non-governmental Organisation and their specific constituents; community based organisations (CBOs) and Community based groups (CBGs).

It was envisaged that the immediate effects and indicators of the policy legislation review would be improved networking between and among local NGOs to avoid duplication and wastage of resources. Reading between the lines one could not that government was more bent on addressing the legal and institutional framework within which international and national NGOs operated in Tanzania.

Actual words of the Policy

The NGO Policy in its introductory statement recognizes that NGOs are important partners in nation building and national development; valuable forces in promoting the qualitative and quantitative development of democracy and not least, important contributors to GNP.

At that time they were about 3000 local and international NGOs in Tanzania and those NGOs dealt with gender, human rights, environment, advocacy, participatory development etc. All of them have been assisting in strengthening the civil society through informing and educating the public on various issues, for example, their legal rights or entitlements to services or by helping attune to Government Policies.

According to the NGO Policy the NGOs had increased since 1985 when major political, social and economic reforms were introduced. However due to various factors such as lack of information on who should register, inadequate information of what is an NGO and to some extent cumbersome process of registration, there are Organization which are not registered, but which qualified to be identified as NGOs. This according to the NGO Policy also included Umbrella Organizations, which were formed in response to the need for NGOs coordination networking and information exchange, etc.

The for government thought that these factors called for a comprehensive policy, which will not only solve the immediate problems of NGOs, but assist in the promotion and development of the NGOs in Tanzania.
The Policy was based on the fundamental principles of NGOs, that, is they are form, run developed or terminated only through free and voluntary acts of individual and association; are managed and controlled by members, trustees or directors independent of the Government but within the framework of liberties and constraints provided for in the laws.

**Objectives of the Policy**

The overall objective of the Policy is to create an enabling environment for the NGOs to operate effectively and efficiently in the social and economic transformation of the country. Specific objectives of the NGO policy are:

1. To provide an operational definition of NGOs
2. To provide a broad framework for legal and institutional arrangements to facilitate the operations of NGO of Tanzania
3. To put in place registration procedures which are transparent, decentralized and which will facilitate better coordination of NGOs while safeguarding the freedom of association
4. To strengthen the relationship between the Government and the civil society
5. To enhance mechanisms for collaborative relations between NGOs, the Government, funding agencies and other stakeholders
6. To facilitate mechanisms for Government support to NGOs
7. To promote transparency, accountability and awareness among NGOs themselves, the Government and other stakeholders
8. To facilitate exchange and flow of information on NGOs activities in order to maximize utilization of resource and also share experiences or research findings

Since the Policy only states the policy framework the NGO Policy made a policy statement on the definition of an NGO and which read as follows; “NGOs shall have specific characteristic which distinguish them from government organizations or other registered private groupings”. The NGO Policy also said that the term NGOs will be applied to organizations, which possess the following defining characteristics:

(i) **Organization**: This means an established or permanent institution. This is demonstrated by a degree of organizational structure i.e. regular meetings and rules of procedures.

(ii) **Voluntary**: These are bodies that are formed freely, willingly, spontaneously by individuals, groups of people or organizations with an element of voluntary participation.

(iii) **Self-governing**: Non-Governmental Organizations have their own internal procedures of governance but nonetheless operate within the laws of society as a whole.

(iv) **Not for Profit Sharing**: NGOs are not-for-profit sharing organizations. Profit and/ or benefits accrued are not for personal or private gain by members or leaders

(v) **Non Political**: NGOs are organizations that do not seek political power or campaign for any political party.

(vi) **Objective**: This requires that the organizations are not self servicing: aim to improve the circumstances and prospects of a particular group or act on concerns and issues which are detrimental to the well being, circumstances or prospects of people or society as a whole.

(vii) **Founders**: NGOs can be formed either by individuals or organizations.

(viii) **Definition**: For the purpose of this Policy Document, the following definition shall be used in Tanzania: “An NGO is a voluntary grouping of individuals or organizations which is autonomous and not-for-profit sharing; organized locally at the grassroots level, nationally or internationally for the purpose of enhancing the legitimate economic, social and /or cultural development or lobbying or advocacy on issues of public interest or interest of a group of individuals or organizations.

Tanzania NGO Regulatory and Legislative Framework (2)
The Policy also makes a policy statement regarding the Institutional Framework. Policy statement reads as follows: “At national, regional and district levels appropriate frameworks and mechanisms be established to facilitate communication and consultations between the Government and NGOs”.

**NGO Coordination Board:** The Policy also provided for the inclusion in the Act of a body to be called the National NGO Coordination Board which will be conferred with a legal personality. The Policy also mentioned that mechanisms will be devised to stipulate the ways of how the Board will be financed and be accountable.

**Composition of NGO Coordination Board:** The NGO Coordination Board shall consist of members representing NGOs and the Government. NGOs representative shall be elected by the Nation NGO Board.

**Office of the Registrar:** There shall be a Registrar of NGOs in the ministry/office responsible for NGOs coordination. The Registrar shall affect the actual registration of NGOs.

The other functions of the NGO Board will be coordination and networking among the NGOs, NGOs shall form NGO National Board representing NGOs. This body shall be self-regulatory. The Policy also gave the mandate to the National Board of NGOs to determine its own structures, rules and the procedures for the efficient administration of its activities.

The Policy also made a policy statement regarding the NGO LEGAL FRAMEWORK and the Policy statement which read as follows; “Registration mechanism for NGOs shall be put in place to enable the streamlining of NGOs registration”. The policy emphasized that the new law shall be enacted to cater for the current deficiencies in NGOs registration deregistration, appeals and termination.

The policy was also cognizant that information exchange and reporting was important for NGOs therefore made a policy statement which read as “To facilitate exchange of information and regular dialogue among all parties involved in or with NGOs in Tanzania”.

This was firstly to maximize utilization of resources, minimize loss of understanding and general lack of information there is need for exchange of information and reporting.

Secondly, the NGO National Bodies and the ministry responsible for NGO coordination shall take initiatives to publish and update NGO Directories information. The Government shall provide information relevant to NGO activities so as to promote a fair information exchange between the Government and NGOs. The National NGO Bodies, NGO Umbrellas individual NGOs, networks as well as NGO Resource Centres shall equally be at liberty to publish directories and produces publications of their constituents, clients and members.

Thirdly, all local and International NGOs shall be required to produce activity reports. These reports shall be made available to the public, National Bodies of NGOs, the Government and other stakeholders for use on request.

Fourthly, that all NGOs, Local and International, shall be required to make available annual financial and/or audited reports to the Registrar’s Office and other stakeholders and finally each NGO shall have a physical address, a sign post and whenever possible notice board displaying its activities.
The Policy also makes a Policy statement regarding the Accountability and transparency of NGOs the statement reads as follows: "Each NGO shall maintain its own code of conduct for the purpose of accountability and transparency."

The Policy makes special reference to International NGOs operating in Tanzania when it say that International NGOs operating in Tanzania will be required to:

⇒ Respect the Tanzanian laws governing their operations.
⇒ Respect the culture and the traditions of the people and communities in which they operate.
⇒ At all times act to foster and promote the capacities and ability of Local NGOs including participating in relevant NGO umbrellas and networks and avoiding actions which may cause rivalry or competitions among local NGOs.
⇒ NGOs shall be allowed to engaged in all legally and acceptable fund raising activities.

The policy also made a policy statement on the government and NGOs partnership and the state read as follows: "The Government recognizes the signification role and contributions of NGOs in the society and considers them as important partners in the development process. It is, therefore, in the interest of the Government to create a conducive and enabling environment to ensure that NGOs potentials are fully utilized".

(a) Partnership in Delivery of Services
The Government shall work in partnership with NGOs in the delivery of public services and programmes. That is, the government shall be free to subcontract NGOs to undertake programmes, where NGOs have comparative advantages and have expressed interest.

(b) Government / NGO Partnership
In order to further the development work the Government shall develop partnership with NGOs in all sectors.

(c) Tax exemptions
The Government will continue to exempt NGOs from tax / VAT under existing tax laws.

The Policy also made a policy statement of the implementation of the National NGO Policy which read as follows: "The implementation of the National NGO Policy will require the participation of all actors at different levels".

(a) Key players for implementation
All local and International NGOs, the ministry responsible for NGOs, coordination, National NGO Body, Umbrella NGOs and networks, Government ministries, region, Local Government Authorities shall work together to ensure effective implementation of the National NGO Policy.

(b) Adoption of this Policy
Government ministries, state agencies, regional and local Government authorities shall adopt policies, practices and guidelines which are in line with the NGO Policy. The will also maintain up-to-date and accurate information about NGOs operating in their fields and or geographical area with which they are concerned.

(c) Revision of this Policy
This policy document may be reviewed from time to time for the purpose of updating it to march with fast-changing social, political and economic context of Tanzania. The revision, whenever deemed necessary, shall be made through a participatory and democratic process. NGOs' missions, objectives, activities, structures and relationships are diversified.
The NGO sector in Tanzania is just emerging and is made up of largely small NGOs. Concerted efforts in the implementation of this Policy will ensure that the numerous small NGOs which are the majority are strengthened.

Therefore, the implementation of this Policy that retains the positive virtues of the existing NGOs practices will enhance the effectiveness and efficiency of NGOs in the country's development process. The NGO sector in Tanzania is just emerging and is made up of largely small NGOs. Concerted efforts in the implementation of this Policy will ensure that the numerous small NGOs which are the majority are strengthened.

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What about the draft NGO Bill at the time

Both the NGOs and the development partners were surprised at the diversion which the proposed bill took from the agreed upon NGO policy. Such that we had one development partner PACT Tanzania saying that “our aim and involvement in the policy formulation process was to see to it that the law was good and enabling for NGO”. The partner a globally renowned NGO Law support organisation further commented that “we got involved in the process because we thought that there is some expertise in NGO law formulation that we could bring to the process, especially drawing on the many years of experience in these issues based on our partnership with Internal Centre Non-profit Law ICNL”.

Frustrated by the draft NGO Bill PACT was left with on other words to say but say that “we believe that government is still committed to having a good law”.

In the nutshell the developing partners who supported the NGO legislation process at this point were disappointed that the government which had earlier been open about the participation in the process especially during the final stages of the NGO policy formulation process, prematurely closed up the opportunity following the White-sands Hotel meeting and came up with a Bill which did not leave up to the spirit of the NGO Policy.

The development partners outlined the three issues which they thought would make the law friendlier and these were the issue of mandatory registration put forward the incentive for registration and getting ready of the clauses which curtail the operations of NGOs such as that which demands NGO to respect the culture and norms of the people they work with. Noting that this could negatively impact on NGO dealing with such harmful practices as Female genital mutilation.

Anomalies in the Act note by NGOs

Over and above the anomalies noted above which were noted by the development partners the NGOs themselves also identified anomalies in terms of generally abridging/violating the fundamental freedom of association, this is in a wake of prohibiting the freedom of coalitions and networks to voluntarily organize themselves.

It was further noted that the Policy was inconsistent with the NGO Policy in that it did not provided an enabling environment for NGO as is stated in the policy—this is evidence by the new Act creating a complicated regulatory regime.

⇒ The Act was also not very clear on the personality/ entity of a registered NGO and whether the other Act the Societies Ordinance to

⇒ The Act was not to be removing the bureaucracy in registration.

⇒ The Act that seen to be violating freedom of expression principles

⇒ By harmonizing activities of NGOs with the national development plans it was diminishing the non-governmental nature of NGOs.

⇒ Lacuna on facilitating mechanisms for government support to NGO

⇒ Director deciding his own case when sitting as a secretary to the board. Was seen to be conflict of interest.
The Act was not be assuring NGOs of the right to be heard.

The Act was to be inconsistence with principles of criminal law

Fundamental freedom of association severely abridged/violated.

The ridicule of public interest

Undefined timing in decision-making

Baseless NGOs national council

Undefined tenure of the council

Subjecting NGOs to culture and traditions

Un-bearable duties

Un-balanced representation of NGOs interests

punishment of convicted office bearers of the NGOs.

The NGO Core group on the review of the national NGO Act noted that “the Act has fundamental and fatal irregularities, and some of the provision are unconstitutional”. The core-group goes on to say that the Act also contain certain provisions that are contrary to the NGO policy. Therefore they deem the Act as a piece of legislation, which discourages the spirit of volunteerism that is characteristics of NGOs work and further seeks to make NGO mare appendages of the government.

First of all the Act is contrary to Article. 20 of the United Republic of Tanzania Constitution 1977 and also the objectives of the NGO policy as have been stated in paragraph 4.0 (iii) which provides for the safeguarding of the freedom of expression. Other sections that are faulty are (Section 11, 18, 35 and 36). These sections demand all NGOs to be registered. Therefore, are against the constitutionally provide freedom of association. They further pose penal sanction on NGOs, which do not register, and on those who run those NGOs. This is accentuated by un-graduated penalties, which are applicable even for trivial misconducts.

Here the NGO core-group suggests that government can encourage registration by prescribing a package of benefits for registration of NGOs. Therefore this section should be amended in no time from now.
CHAPTER TWO

NGO ACT NO. 24 of 2002

THE NON-GOVERNMENTAL ORGANIZATIONS ACT, 2002

ARRANGEMENT OF SECTIONS

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**PART I**

**PRELIMINARY PROVISIONS**

1. Short title and commencement.
2. Interpretation.
NGO Act No.24 of 2002

The Act provides for the registration of NGOs with a view to coordinate and regulated activities of NGOs and provide for related matters. The Act also states that there shall be appointed by the President an officer to be the Director of NGO coordination this has been done and this officer can be reached on the address give on the last page of this booklet.

The functions and duties of the Director include, advice on policy and other matters regarding NGOs, oversee implementation of the NGO Act, avail the information regarding NGOs operations to the public and the government, encourage intra-ministerial cooperation in regard to NGOs, register NGOs and maintain the registers thereof, keep records and reports regarding NGOs, appoint public officer under this Act and perform such other duties as may be assigned to him by the NGO Coordination Board (in fact the Director is the Secretary to the NGO Coordination Board).

The Act also states that there shall be established a Board to be called the NGO Coordination Board this is the Board to which the Director is the Secretary. The function of the NGO Coordination Board are to approve and coordinate registration of NGOs, facilitate the implementation of the National NGO Policy which has been outlined in a later chapter on this booklet, approve or decline registration of NGOs, cancel or suspend NGOs and to examine the annual reports of NGOs.

Other functions of the NGO Coordination Board are to advise government on NGO related activities, provide policy guidelines, receive, discuss and approve report and plans from the National NGO Council (NaCoNGO), facilitate information sharing an guideline for NGOs coordination and networking, investigate and inquire into any matter in order to ensure adherence with the constitution of each NGO and perform any other such functions as directed by the Minister.

According to the NGO Act each NGO shall be required to register and that a group of persons who wish to apply for registration of NGOs shall make application in the prescribed form to the registrar and will also attach copies of the constitution, minutes and full names of funder members, particulars of office bearers, address and location of the organization an application fee and other information ads may be required by the registrar.

The registrar is expected within one month of receiving the application to forward the application to the Board for consideration. The Board is also expected within two months to make a determination of whether to register or refuse registration of the NGOs.

The Board may refuse an NGO’s registration on the following grounds, activities of the NGOs not being for public interest or contrary to any written laws of Tanzania, applicant giving false information or on recommendation of the NGO Council (details are contained in section 14 of the NGO Act No.24 of 2002).

As has been mentioned in the above text the Board many also cancel or suspend NGOs and the procedure for this has been outlined in section 20 and 21 of the NGO Act No.24 of 2002.

The Registrar is expected for the purpose of facilitating registration at regional and district levels to appoint public officer a detailed outline of the registration process has been outlined in section 23 of NGO Act No.24 of 2002. However the Board may need proof of existence of an NGO.

For the purpose of accountability and self-regulation of NGOs the act states that there shall be established an umbrella organization to be known as the NGO Council for Non-governmental Organizations which will be a collective forum of NGOs for the purpose of coordination and networking. The Act also goes on to state that the NGO Council will comprise 30 members as may be appointed by NGOs to represent their respective interests.
NGO Act No.24 of 2002
The Act in section 25 states that no person, body of persons or NGO shall, after the establishment of the Council, perform or claim to perform anything which the Council is empowered to or required to do under the Act. Section 26 gives guidance on how the Council will constitute itself, the meeting of the Council and emphasizes that office bearers shall hold office for a period of three years, and may be eligible for re-appointment for only another one term.

The prime duty of the NGO Council is to develop and cause to be adopted a code of conduct and such other regulations which shall facilitate self-regulation of Non-governmental organizations.

Section 29 speaks to the issue of activity and financial reporting of NGOs when it states that each NGO shall every year prepare a report of it activities and make them available to the Public, the Council, the Board and other stakeholders. This according to the Act should be accompanied by annual audited report and submitted to Council and the Board.

According to section 30 of the Act NGOs are expected to respect the organizational governing documents especially the constitution and abide by what they say they will do. Further the Act in Article 30 demands NGOs to respect the laws governing NGO operations, to respect the culture and traditions of the people and communities in which they operate unless such culture and traditions are contrary to any written law.

Section 30 makes special reference to International NGOs of which the Act expects to foster and promote the capacities and abilities of other NGOs, to participate in activities of the NGO Council and to refrain from doing ant acts which are likely to cause competition or misunderstanding among NGOs. The Act also demands NGO to only engage in legally acceptable fundraising activities and also ensure that they notify the Registrar of any changes in the constitution or name of the organization.

Section 35 speaks to the issue of penalties when it says that anyone who does the following forges utters any documents for the purpose of procuring registration, makes false statements in respect of an application for registration, conducts fundraising activities contrary to the NGO Act, operates an NGO without registration or violates the Code of conduct, or conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment not exceeding 1 year or both. Section 35 goes on to say that for offences committed under this Act the office bear shall be the one liable.

Section 37 speaks to the issue of making public the register of NGOs and clearly publicizing all the names of NGOs which have been cancelled and deregistered.

As has been noted in the initial text of this chapter the NGO Act was amended and changes made to Act No.24 of 2002 by the Miscellaneous Amendment No.2 Act, 2005. Here the Principle Act (meaning Act No. 24 of 2002 was amended and an insertion a definition of the term “non-partisan” meaning “not seeking political power or campaigning for any political party”. The amendments also defines the term NGO to mean “ a voluntary grouping of individuals or organizations which is autonomous , non-partisan, non-profit sharing and organized at the local, national or international level for the purpose of enhancing or promoting economic, environmental, social or cultural development or protecting the environment, lobbying or advocating on such issues or established under the auspices of any religious or faith propagating organizations, trade union, sports club, political party, religious or faith organization or community based organization but does not include a trade union, social club, a religious or faith propagating organization or community based organization (section 5).
CHAPTER THREE

The National Council of NGOs
NaCoNEC

GOVERNMENT NOTICE No. 365 Published On N/12/2009

THE NON GOVERNMENTAL ORGANIZATIONS ACT
(CAP. 56)

INSTRUMENT

(Made under section 37)

CODE OF CONDUCT OF NGOs in Tanzania
The NGO Code of Conduct

The Code has been formulated by the National Council of NGOs (NACONGO) which according to the NGOs Act No. 24 of 2002 has been charged with the responsibility of co-ordination and networking of all Non-Governmental Organizations operating in Mainland Tanzania section 25 (1) (2). According to NACONGO the purpose of the Code is to establish core values and principles which guide the conduct and operations of all NGOs working in Tanzania.

Further the Code of Conduct shall provide guidance to NGOs toward meeting the challenges of sustaining democratic and participatory institutions and strengthening enabling environmental in which people shall collectively or individually determine their destiny. (Agenda setting and inclusiveness?)

The Code of Conduct has been formulated to; a) Promote an open, transparent and enabling environmental of work for all NGOs; The Non Governmental Organizations (Code Of Conduct), b) Promote and encourage transparency and accountability within the operation of NGOs; (c) Contribute and promote principles and ways of working that endure effective collaboration and coordination among NGOs and other stakeholders, and (d) Establish mechanisms for code observance. While interrogating the purpose it is important for both local and international NGOs to reflect on the following:

To what extent have NGOs supported efforts of NACONGO to promote an open, transparent and enabling environmental of work for all NGOs?

b) How transparent and to whom are the NGOs accountable and why?

(c) What is the state of collaboration and coordination NGOs, Local NGOs and NACONGO?

(d) What role have NGOs played in the establishment of mechanisms for code observance? And have NGO done on observance?

The Code of Conduct prescribes the following values as the key values for Tanzanian NGOs; self determination, ownership, autonomy and empowerment of the NGOs, Respect human rights and promotes the people voices, Equality, equity and equal opportunities, Sovereignty of the nation and autonomy of Institutions, diversity of opinion, freedom of expression and open debate.

The other values are promotion of transparency, accountability, partnerships quality, excellence creativity, self learning and reflection in both our organizations and communities. Least but not the least of the NGO values is principled advocacy for public interest. NGOs have also listed mutual partnership and relationships as their values (To what extent has your NGOs lived these values?)

The Code also expects each Non Governmental Organization to do the following; (a) be answerable to its constituencies and work in accordance with national laws; (b) have governing bodies which have clearly defined structures, roles and responsibilities; (c) have written procedures regarding the appointment, responsibilities and terms of members of the governing body and specify the frequency of meetings, quorum and reporting mechanism; (d) be responsive and accountable to the people it serve without compromising its core values, vision, mission and objectives; (e) develop and adhere to policies that prohibit direct or indirect conflict of interest by members of the governance structures as well as members, employees and volunteers of the organization; (f) ensure that the leadership of its organization is elected or appointed based on the principles of equal opportunities for all and that it observes and respects peoples merits, capabilities and is representative of its constituencies; (g) shall not enter into contracts which undermine sovereignty of the state and rights of the people (To what extent does NGO honor the above?)
The Code also demands NGOs to be accountable by recognizing and appreciating multiple levels of accountability as follows; downward and upward accountability, to and from the people; internal accountability; external accountability and horizontal accountability.

**Communication demands:** The Code of Conduct also demands NGOs to regularly communicate, in clear and accessible manner its values, governance structure, mission objectives and approaches and progress made in its work (shall share the vision and mission to stakeholders and new members as often as possible)

*Do a self-assessment of the extent to which our organization is known to the beneficiaries?*

**Inclusive evaluation:** the Code of Conduct demands NGOs to undertake inclusive organizational process and involve and other actors in the organizational process and in assessing the impact and performance of their work when the Code calls for independent and inclusive evaluation of the work of NGOs (5b).

**Financial Transparency:** In regard to financial transparency and Accountability the Code demands NGOs to; (a) Develop and adhere to clear, well defined and written financial regulations that are consistent with sound financial management principles and practice; (b) Seek to limit resources used towards fundraising and running costs to a reasonable; (d) For the purpose of sustainability, undertake financial resources sustainability activities; (e) Manage resources in a manner that is prudent and provides value for money, including where applicable by employing or involving competent personnel; (f) Ensure all financial transactions are transparently and fully documented, and that these documents are preserved for a defined number of levels or standard; (g) Develop programs that take into account institutional strengthening and sustainability; years; (h) Ensure all substantive expenditures are authorized in a process that involves scrutiny by more than one officer, and where the chief executive or any other officer does not have unlimited authority; (h) Ensure procurement is undertaken in a manner that provides quality at least cost, avoids favoritism and corruption, is transparent, documented and otherwise conforms to sound procurement principles; (i) Maintain a regularly updated assets register in accordance with sound accounting practice; (j) Maintain and manage bank account(s); (k) Develop and adhere to clear policies regarding payments to staff, volunteers to avoid conflict of interest and incentives to distort organizational priorities.

The other financial requirements are to (l) Prepare comprehensive and accurate financial statements in accordance with sound accounting practice; (m) Ensure that its financial statements are independently audited by registered and competent auditors; and (n) Exercise zero tolerance on corruption and other form of substantive misuse of funds, and take effective actions to hold persons or institutions responsible accountable.

**Human Resources:** The Code also wants NGOs to; adhere to clear, well defined, written human resource and administrative policies and procedures, consistent with the laws of Tanzania, promote and enforce clear policies to avoid conflict of interest, nepotism, favoritism, corruption and ensure an environment where mutual respect and human dignity is fostered.

The Code of Conduct also seeks to promote and practice fairness and non-discrimination in recruitment and to the maximum extent possible promote diversity and gender balance in staff composition, to ensure that its employment policies and procedures foster the utilization of the local capacity without compromising the quality of services and interventions and to have capacity development programs for staff, members and leaders to ensure existing potentials are fully developed and utilized.

Other key elements promoted by the NGO Code of Conduct are the establishment of clear disciplinary and grievance procedures, fostering and promoting the capacities of national or local NGOs, rather than implementation at grassroots level (entails that international NGOs should play capacity building role and national levels should also provide support to local grassroots based NGOs to what extent is your NGO doing so?)
**Communication and Information:** the Code demands NGOs to ensure that there is effective Management and Information System (MIS) which provides frameworks and guidelines of how stakeholders shall be informed of the organizational functions and outcomes and vice versa, nurture the practice of sharing information within its constituencies and networks in order to facilitate learning of lessons, reduction of duplication of activities and increase efficient use of resources (*do you have a database of even your members?*). On the NGO Council the Code even demands more when it states that the Council shall establish a database which shall have basic information on all NGOs operating in the country and that its shall collect information from, and disseminate it to different NGOs (through district, regional committees and networks).

**Relationships and Networking:** Further according to the Code of Conduct NACONGO is expected to promote and ensure good working relationship with the Government of the United republic of Tanzania and other stakeholders at all levels, NGOs representatives who will represent the Tanzanian NGOs sector in any forum within or outside Tanzania shall be required to get the blessings of the Council and thereafter provide feedback to the Council.

**Observance of the Code:** The Code says there shall be three levels to manage the Code of Conduct, which are the district regional and national levels and that the NGOs shall, individually and/or collectively, be responsible for assessing and monitoring their performances in relation to the requirements of this Code of Conduct.

- Further the National NGOs Council, through its Ethics Committee shall provide advice, recommendation or compliments to respective NGOs or Networks based on the outcomes of the assessments. Where necessary the Council shall have sound warning signals to NGOs not showing indicators of good performance to the Code of Conduct. The outcomes of the assessments shall be made available to their members and relevant stakeholders at all levels.
- The National NGOs Council, through its ethics Committee at regional and district levels or commission its powers to other existing agents, NGOs networks and coalitions to coordinate and supervise observance of this Code of Conduct. Council members at regional and district levels shall be members of the ethics committees.
- The Regional and District Ethics Committees shall on a quarterly basis inform the Council’s Ethics Committee at national level on NGOs observance of this Code. The Council’s Ethics Committee shall produce a quarterly report which shall be shared among all relevant stakeholders.
- The existing NGOs networks shall ensure that their constituencies adhere to this code of conduct.
- A member of an NGO involved in a conflict regarding observance of this Code of Conduct shall appeal to regional and district NGOs Ethics Committees. The Committee, to which the complaint has been sent, shall carefully review the case using its procedures and provide advice, guidance and recommendation to the responsible parties.
- The National NGOs Council through its Ethics Committee shall be last reference point in a conflict with regard to the observance of this Code of Conduct.
- In case where defaulters, individuals or institutions, to the code of conduct have committed serious offences to jeopardize the life of people and properties of the organization or the public such as rights, corruption, theft, or embezzlement of resources, immediate legal procedures and actions shall come into effect.
- This Code of Conduct shall be amended from time to time based on recommendations of NGOs and the resolutions of National Council of NGOs.
CHAPTER FOUR
Operational Guidelines for NaCoNGO
Operation guidelines for the NGO Council

The preamble of the operational guidelines of 2016 states that the regulation shall apply to all registered NGOs in Mainland Tanzania. It also gives vision and mission of the NGO Council which read as follows “NaCoNGO envisions a prosperous society where NGOs play an active role in the socio-economic development of the country” and “a mission of providing a coordinated workable mechanism for NGOs contribution to information sharing, networking, lobbying and advocacy, representation and self-regulation”.

The guidelines go on to state that legal responsibility and operations of NaCoNGO are governed from the apex governing organ namely the Governing Council which has the following, The Council Annual Meeting, The National Council for NGO, Executive Committee and Management. The operational guidelines lists the following as the functions of NaCoNGO, protecting the interest of NGOs, networking and coalition building among NGOs, providing a unified voice for NGO affairs, regulate and coordinate NGOs conduct, information collection, processing and dissemination.

Other functions are linkage creation among the NGOs, Government and other stakeholders, fostering NGOs adherence of the Act, resource mobilization and equitable allocation to NGOs and representation of NGOs in the national, sub-national and international levels.

NaCoNGO also have the function of dispute mediation and mitigation among NGOs and between NGOs and other actors, fostering ethical conduct among NGOs, publicizing the role of NGOs in national development, creating awareness on the laws, policies and regulations pertaining to NGO wellbeing and organizing NGO Forums.

The operational guidelines also outlines the roles of the Executive Committee as including determining the organization’s mission and vision, appointing the coordinator, supporting and evaluating the coordinator, ensuring effective planning, and monitoring and strengthening programs and services.

Other functions of the Executive Committee are to ensure adequate financial resources, protecting assets and provide financial oversight, building a competent Council, ensuring legal and ethical integrity and enhancing NaCoNGO public image and standing.

The Executive Committee is composed of the Chair, Secretary, Treasurer and four representatives from sub-committees. The Tenure and qualifications of the Members are Executive Committee are prescribed in the NaCoNGO Election Regulations which have been narrated on in the later chapter in this booklet.

Below the Executive Committee are Sub-committees whose functions are financial and administration, communication and networking, ethics and capacity building. The operational guidelines also demand NaCoNGO to put in place a management team which is responsible for the execution of day to day activities, to be constituted by members of the secretariat and the Secretary General.

The Management is led by the coordinator who is the chief executive, a finance and administration manager, an ethics promotion manager, a capacity development manager, an advocacy, alliance and networking manager and other staff as need may arise. The management is directly overseen by the Secretary General.

The responsibilities of members of the Council governing and providing oversight, expanding funds, vetting, formulating and repealing rules, delegating powers, convening meetings, performance review, conducting capacity assessments, formulating of procedures for election of Council Members, ensure that NGOs are involved in the decision-making and ensuring that the organization has clearly separated the role between and members of NaCoNGO and Secretariat in its operational guidelines and regulations and to ensure the NGO fraternity has sufficient information to understand the objective, plans and activities.
The operational guidelines also stipulate the responsibilities of individual NGOs to the Council which are submitting annual activity and audited financial statements to NaCoNGO and Registrar of NGOs, adhere to the NGOs Code of Conduct and comply with the NGO Act No. 24/2002, to avail their members to effectively participate in NaCoNGO activities of NaCoNGO and to operate in good interest of NaCoNGO.

The individual NGOs shall exercise the following rights over the Council to be members of NaCoNGO, be heard in appropriate structures of NaCoNGO access information on NaCoNGO activities and financial statement and to be represented by NaCoNGO in different forum where necessary.
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Guide on NGO Code of Conduct, NGOs Act and Operational guidelines in Tanzania

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