

**OFFICE OF THE VICE
PRESIDENT AND MINISTRY OF
HOME AFFAIRS**

**Sessional Paper No... of 2005
on Non Governmental Organisations**

September 2005

Forward

The Non governmental Sessional Paper is the culmination of a consultative policy formulation process that was started in December 2001, when the NGOs Coordination Board decided to involve stakeholders in the development of a comprehensive NGOs coordination Act that would reflect the Government's plan towards enhancing the delivery of efficient and quality services by the NGOs sector.

NGOs are now to be found in every conceivable sector of the economy and every corner of this country targeting the poor of the poorest. The Government in its current Economic Recovery Strategy for Employment and Wealth Creation appreciated the critical role played by the NGOs as an important ingredient to the achievement of the set target of a sustained economic growth rate of between 6% and 7% per annum.

The vision of the NGOs sector is to promote the provision of goods and services in the most equitable and transparent way while being accountable to both the donors and societies they are serving. This policy framework is the government's first step towards developing conducive legal administrative guidelines to govern the NGOs for optimal operations.

The policy aims and aspirations expressed in this paper will however remain a distant dream if the identified policies and strategies are not put in practice and strategies are not put in practice by both the regulator and the sector players.

Finally I would like to thank all those who participated for this valuable assistance that enabled the production of a comprehensive NGOs Coordination Policy that articulates the attributes of non-governmental organizations and how they should run their affairs.

Hon. Suleiman R. Shakombo, M.P.
Minister of State for National Heritage

TABLE OF CONTENTS

(I) FORWARD.....	ERROR! BOOKMARK NOT DEFINED.
(II) LIST OF ACRONYMS.....	- 4 -
(III) VISION.....	- 5 -
(IV) MISSION.....	- 5 -
(V) EXECUTIVE SUMMARY.....	- 6 -
CHAPTER ONE.....	- 7 -
1.0 INTRODUCTION.....	- 7 -
1.1 HISTORICAL BACKGROUND	- 7 -
1.2 NEED/JUSTIFICATION FOR THE POLICY.....	- 9 -
CHAPTER TWO	- 11 -
2.0 CORE VALUES AND PRINCIPLES OF THE NGOs POLICY	- 11 -
2.1 NEW PARADIGMS IN SOCIAL AND ECONOMIC DEVELOPMENT..	- 11 -
POLICY STATEMENTS.....	- 13 -
CHAPTER THREE	- 14 -
3.0 CURRENT STATUS OF NGOS IN KENYA.....	- 14 -
POLICY STATEMENTS.....	- 14 -
CHAPTER FOUR	- 16 -
4.0 CHARACTERISTICS OF NGOs.....	- 16 -
4.1 DEFINITION OF AN NGO	- 17 -
4.2 INSTITUTIONAL FRAMEWORK	- 17 -
4.3 NGOs COORDINATION BOARD	- 19 -
4.4 THE NGOs BOARD'S SECRETARIAT.....	- 20 -
4.5 NGOs NETWORKS AND FORA	- 20 -
4.6 LEGAL FRAMEWORK.....	- 21 -
4.7 EXCHANGE OF INFORMATION.....	- 23 -
4.8NGOS ACCOUNTABILITY AND TRANSPARENCY	- 23 -
4.9 GOVERNMENT – NGOS PARTNERSHIP.....	- 24 -
5.10 NGOS CAPACITY BUILDING	- 26 -
5.11 NGOs SUSTAINABILITY	- 26 -

(ii) LIST OF ACRONYMS

CBO	Community Based Organization
GDP -	Gross Domestic Product
ICCPR	International Conventions of Civil and Political Rights
ICESCR	International Conference on Economic, Social and Cultural Rights
NGO	Non-Governmental Organization
NGO COUNCIL	The National Council of Non Governmental Organizations
NPM	New Public Management
UDHR	Universal Declaration of Human Rights
UNDAF	United Nations Development Assessment Framework
UNDP	United Nations Development Programme
YWCA	Young Women Christian Association
YMCA	Young Men Christian Association
VSO	Voluntary Sector Organization
PRSP	Poverty Reduction Strategy Paper

VISION

The NGOs Co-ordination Board vision is to be the leading centre of excellence for the co-ordination and facilitation of the NGO/CSO sector in Kenya

MISSION

The Board's mission is to provide efficient services in the coordination and facilitation of the NGOs/CSO sector in order to support and enhance the contribution of the sector in the socio-economic development and improvement of the welfare of the people.

EXECUTIVE SUMMARY

The need for this sessional paper arises from the Government's recognition that besides it being the primary provider of basic services, the NGOs have emerged and are greatly complementing its efforts. The non governmental Organisations are increasingly being recognized by governments everywhere as potent forces for social and economic development, important partners in national development, and valuable agents in promoting the qualitative and quantitative development of the GDP. This sessional paper recognizes that the success of socio economic and democratic governance transformation strategies pursued by the government at present and in the future is to a large extent, dependent on the performance of civil societies as a sector and as an accelerator

The challenges facing the NGO sector today and as enumerated in the sessional paper include, inter alia weak operational definition of NGOs, Registration, Policy, Self regulation, arbitration within the council and NGOs governance.

As a consequence the sector has been experiencing an increased number of cases of international governance, misappropriation of resources and lack of transparency and accountability. These problems coupled with internal wrangling that has been affecting the umbrella body NGO council have contributed to low morale and apathy in the sector

The NGO sector policy provides a framework for the regulation and facilitation of NGOs activities in Kenya in a manner that is efficient, effective and transparent and which recognizes the dynamism of the sector and the need to constantly ensure relevance. It also provides a basis for a participatory monitoring of the sector and generation of adequate and quality data on the contribution of the sector to national development and on how best, the sector can be further supported to ensure the best possible impact.

CHAPTER ONE

1.0 INTRODUCTION

The overall National Development objectives of the Government of Kenya are accelerated economic growth and rising productivity of all sectors, equitable distribution of national income, alleviation of poverty through the provision of basic needs, enhanced agricultural productivity, industrialization, accelerated employment creation and improved rural-urban balance. For these goals to be realized all factors and actors of production must be closely coordinated so that they applied optimally. NGOs are increasingly getting involved in complementing the government in all manners and hence the need to have a legal and administrative guidelines under which they operate.

This proposed policy arises from the recognition of the government that, it is the primary provider of basic services. However, the government recognizes that NGOs have to be facilitated to operate as they complement the efforts of the government in providing basic and relief services.

Non-Governmental Organizations (NGOs) are increasingly being recognized by governments every where as potent forces for social and economic development; 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 GDP.

The government of Kenya recognizes the need to work together with NGOs and the need for such cooperation to extend to other key players, including funders of NGOs, the disadvantaged and the vulnerable people in Kenya's society, other sectors of civil society and the wider public.

The government further recognizes that NGOs are independent entities. However, NGOs must be subjected to the law/s of Kenya.

1.1 HISTORICAL BACKGROUND

The government further recognizes that effective and efficient self-regulation is the basic foundation for an effective working NGOs sector. The government shall therefore require the NGOs Council to strengthen the self-regulatory mechanisms already existing in Kenya's NGO sector. The Council will work in this regard with the NGOs Coordination Board and other stakeholders.

The government, funders, NGOs and other stakeholders recognize the fact that, NGOs are partners in the social-economic development of Kenya and that an enabling and well regulated environment is a necessary prerequisite for the good and smooth operations of NGOs.

Voluntary development initiatives in Kenya have their basis in the emergence of church-based and independent secular organizations independent of the state in the colonial period. The church-based organizations were formed to address relief and welfare issues.

Mention must also be made of local welfare organizations formed by migrant workers in the colonial period in the major towns, such as the *Kavirondo Taxpayers' Welfare Association*, some of which took on political overtones during the decolonization struggle.

Voluntary development initiatives in Kenya also have their basis in the *Harambee* motto. Harambee means pulling together for mutual assistance. NGOs in Kenya draw much of their local contemporary strength from Harambee roots. Through Harambee people in a given locality would organize themselves to accomplish certain production tasks and assist members in need.

Through *Harambee* communities mobilized themselves and their resources and contributed freely to efforts to build local schools, health clinics, water-wells, cattle dips and later, village polytechnics

At independence Kenya faced serious floods and famine. She became an international centre of focus and an entry point for many foreign relief agencies and local voluntary organizations. Many local volunteer and civil society bodies such as the YWCA, YMCA and *Maendeleo Ya Wanawake* Organization expanded their activities during and after this period. By the late 1970s, Kenya had about 120 NGOs, both foreign and national, which were involved in more than relief and welfare activities.

By this time most of these NGOs had expanded their scope to include community development activities in order to address the root causes of these problems. Warm relations between the government and NGOs were exemplified especially by the support granted to the latter in terms of tax exemptions, secondments of government staff to NGOs projects and general collaboration in development endeavors.

During this time Kenya became a favoured base for foreign NGOs operating in Eastern and Northern Africa. This was as a result of the relatively welcoming attitude of the government and also because of the absence of major political upheavals.

The temperate climate of the Nairobi area and good international communications were also major factors. The new wave of famines in the region during the early 1980s was to lead to further growth in the presence of existing and new foreign NGOs.

1.2 NEED/JUSTIFICATION FOR THE POLICY

The Government encourages partnership with the private sector and other non-state actors and *Wananchi* in order to complement government efforts.

NGOs have an important role to play in the provision of social and economic services.

NGOs address diverse issues ranging from lobbying, advocacy and human rights to service provision. They bring creativity, innovation and develop strong community links thereby playing a catalytic role in improving the delivery of various types of services, hence the justification of an NGOs Policy, which recognizes NGOs as development actors in their own right.

Given the increasing numbers of NGOs, there is need to enhance self-regulation, transparency and accountability of NGOs and establish modalities for interaction between NGOs and the State and between NGOs and other stakeholders.

1.3 OBJECTIVES OF THE NGOs POLICY

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

- i. To provide an operational definition of NGOs
- ii. To provide a broad framework for legal and institutional arrangements to facilitate the operations of NGOs in Kenya

- iii. To propose registration procedures, which are transparent, and which will facilitate better coordination of NGOs while safeguarding the freedom of association.
- iv. To strengthen the relationship and networks between the Government and the civil society bodies including NGOs
- v. To enhance mechanisms for collaborative relations between NGOs, the government, funding agencies and other stakeholders
- vi. To propose and facilitate mechanisms for government support to NGOs, such as funding of NGOs activities and contracting NGOs to implement projects on its behalf
- vii. To promote transparency, accountability and awareness among NGOs themselves, the government and other stakeholders involved in the sector. This means that NGOs shall operate among other things, under the principle of zero tolerance on corruption, shall be open to its stakeholders including government, shall share information with its stakeholder, shall cause its operations to be audited by peers and stakeholders, shall observe the rule of law and shall exercise responsibility, trustworthiness and integrity in its operations
- viii. To facilitate exchange and flow of information on NGOs activities in order to maximize utilization of resources, share experiences and research findings. This policy will be the basis for the laws to govern the operations of NGOs in Kenya

CHAPTER TWO

2.0 CORE VALUES AND PRINCIPLES OF THE NGOs POLICY

The policies and activities of NGOs will be governed by core values and principles. Every NGO shall undertake to have the values and principles fully integrated in all its work. These core values and principles include:

Justice, Probity, Sustainable development, Subsidiarity, Sustainable resource generation and use, Democracy, Honesty, Ethical operations, Prudence, Respect, Service, Accessibility, Self-regulation and Control, Humility, Professionalism, Gender equity, Accountability, Transparency, Participation, Complementarity, Partnership building, Equality, Joint decision making, and People centeredness.

2.1 NEW PARADIGMS IN SOCIAL AND ECONOMIC DEVELOPMENT

The role of state and non-state actors began to change in the 1980s. The force of change was the new orthodoxy of development known as the New Public Management (NPM) Concept. The NPM concept came about because of changes in development thinking. Nowadays, new pressures confront governments in every part of the world. Key values relating to the role of the state, the role of markets, the role of the citizens and civil society bodies such as NGOs are now all contested.

The role of the various actors, including NGOs, in social-economic development has been redefined. The new roles encourage governments to work in **partnership** with the private sector and with civil society bodies and communities in which they work.

The common slogan these days is that governments, (and this includes central and local governments) should **'enable'** and **'regulate'** the private and community sectors rather than directly engaging in the provision of goods and services.

Other issues of concern under the NPM include: **governance, accountability, and elimination of corruption** and encouragement of **good practices**. This is in agreement with Kenya government's policy on **zero-tolerance** on

corruption. It is important to note that recently the government released a blue print on economic recovery. NGOs involvement in the constitutional review process, poverty alleviation, the fight against corruption and institution of good governance underscore their importance.

The NPM has two strands. The first is what has come to be called **'Managerialism'**. Managerialism involves the following elements:

- i. Continuous increases in efficiency
- ii. The use of 'ever-more sophisticated technologies
- iii. A labor force disciplined to productivity
- iv. Clear implementation of the professional management role
- v. Managers being given the right and freedom to manage even in public service organizations, thus governments should not be **"controlling"** but should concentrate on regulation and enablement roles

The second strand of the NPM is based upon indirect control rather than direct authority. The characteristics of the second strand of the NPM are:

- i. Continual improvements in quality
- ii. Emphasis upon devolution and delegation
- iii. Appropriate information systems
- iv. Emphasis upon contracts and markets
- v. Measuring performance
- vi. Increased emphasis on audit and inspection

To be more effective in service provision to citizens the NPM must be embraced in the public service sector as well as in the operations of the civil society bodies such as NGOs and CBOs.

The **citizen** (the user of services) has an important place in the new orthodoxy. Individual citizens have rights, and must be **allowed a say** in service provision whether by central or local government or NGOs, and must be allowed the maximum choice in the services that they use, **bolstered by systems of complaint and redress.**

In the system of NPM, there has to be **Accountability** and **Transparency**. This means that there has to be **good governance**. Accountability requires putting the 'interests' of citizens ahead of self-interests. Transparency requires 'openness' in the conduct of public service business.

In order to embrace the ideals of the NPM, NGOs will need to: allow the broader use of competition in the procurement and delivery of services allow **increased involvement** of stakeholders or users of services where commercial and competitive behavior is constrained consult their stakeholders more in decision making train their workers and stake holders on the principles of NPM

Applying commercial principles involves giving service providers focused and explicit **performance objectives**, well defined budgets based on revenues, and managerial and financial autonomy – while also holding them **accountable** for their performance.

The NPM brings into focus the new roles of government under a more liberalized environment, governance, democracy, political reform, accountability, transparency and participation of citizens in decisions and policies on issues affecting them

POLICY STATEMENTS

The government recognizes the need for change in the management of the economy. It recognizes that NGOs and other civic bodies must be facilitated to play a greater role in the economy than hitherto. It recognizes that there is need for a new policy and legislative framework, which would help to address challenges and problems currently encountered by NGOs.

The government supports popular participation, collaborative partnership and dialogue. It supports the constitutional right of the citizens to participate in matters affecting them.

This policy encourages and supports formation of partnerships between NGOs, private sector and communities for the purposes of creating synergies and coordination in operations, communications, resource use, enhancement of democratic principles, accountability and good governance, all critical factors in the operations of voluntary sector actors

CHAPTER THREE

3.0 CURRENT STATUS OF NGOS IN KENYA

Currently there are many national, regional and international NGOs in Kenya. Some of these deal with issues such as gender, human rights, environment, advocacy and participatory development. All of them have been assisting in strengthening the civil society through informing and educating the public on various issues, such as their legal rights, entitlements to services or by helping them attune to government policies. NGOs are involved in all spheres of life.

The activities of NGOs have increased since 1980s. The 1980s and 1990s was a period in which Kenyan NGOs changed in several ways. They shifted their focus away from concerns about relief to more general interests in development. They increased their involvement in socio-economic matters.

The range of activities in which they began to involve themselves widened to include sectors such as energy, environment, primary health care, nutrition, education, and vocational training. The government of Kenya and development partners recognizes the role of NGOs as agents of development and positive change.

The above factors call for a comprehensive policy, which will assist in the promotion and development of the NGOs in Kenya.

The proposed policy reiterates and retains all the fundamental principles of NGOs, that is, they are formed, run, developed or terminated only through free and voluntary acts of individuals and associations; are managed and controlled by members, trustees or directors independent of the government but within the framework of liberties and constraints provided for by laws of the land

POLICY STATEMENTS

The government shall engage with NGOs on all matters of development and shall invite them to participate in policy making. The government shall facilitate exchange of information and regular dialogue with NGOs and other stakeholders.

The government shall encourage and empower NGOs to become more involved in matters of economic development. It will promote and enhance the operations of the national, provincial and district level networks existing currently through the efforts of the NGOs Council. The government will also continue to support

the nascent consultative framework created as a consequence of the Poverty Reduction Strategy Paper (PRSP).

The government will require NGOs to operate more transparently particularly in regard to their financial and human resource management systems. It will, through the NGOs Coordination Board, demand reports, strategic plans and audit reports from all NGOs. The reports will be channeled through the NGOs Coordination Board's Secretariat. For ease of networking and coordination of networks all NGOs will be required to work under the auspices of the NGOs Council.

The NGOs Council shall enforce self-regulation in the sector. The NGOs Coordination Board will also be called upon to ensure that self-regulation takes place in an effective manner. The Board will do this in its supervisory capacity.

The above will be achieved through a comprehensive review of legislation governing the operations of the NGOs sector. The new legislation will be based on this proposed policy.

CHAPTER FOUR

4.0 CHARACTERISTICS OF NGOs

To avoid the pitfalls of complexity and exclusion, it is necessary to set out a basis in which, within the NGOs Policy framework, there can be some common understanding of the term “NGOs”. NGOs shall have specific characteristics, which distinguish them from government organizations or other registered private groupings.

They shall include Voluntary Sector Organizations (VSO). Thus, the term NGOs will be applied to organizations, operating in the voluntary sector, which possess the following defining characteristics:

Organization

This means an established or permanent institution with a degree of organizational structure, which include regular meetings, and rules of procedures.

Voluntary

These are bodies that are formed freely, willingly, spontaneously by individuals, groups or organizations with an element of voluntary participation.

Self-Governing and Self -Regulating

Non-Governmental Organizations have their own internal procedures for governance but nonetheless operate within accepted norms of society as a whole.

Not for Profit Sharing

NGOs are not profit making organizations, but where profits are accrued, they are ploughed back to the community through the organization.

Objective

The objective is to improve the sustainability of human life and preserve fauna and flora for posterity.

Founders

NGOs can be formed either by individuals or organizations among others.

4.1 DEFINITION OF AN NGO

For the purpose of this Policy Document, the following definition shall be used in Kenya.

An NGO is a voluntary organization or grouping of individuals or organizations which is autonomous and not-for-profit sharing; operating in the voluntary sector; organized locally at the grassroots level, nationally, regionally or internationally for the purpose of enhancing the legitimate economic, social and/or cultural development or lobbying or advocating on issues of public interest or interest of a group of individuals or organizations; but shall not include Trade Unions, social clubs and entertainment sports clubs, political parties, private companies or faith propagating organizations.

4.2 INSTITUTIONAL FRAMEWORK

The **Ministry responsible** for social and economic development docket will be vested with the responsibilities of overall policy direction in the operations of NGOs.

However, government policy direction in social and economic issues will determine the Ministry responsible for the NGOs sector. **The NGOs Coordination Board** will have the key responsibility of coordinating the activities of NGOs.

In sectoral ministries, officers will be designated to be dealing with NGOs matters particularly coordination issues along with their other engagements.

In order for the Board to discharge this mandate effectively, it will be constituted by professionally qualified, government nominated and elected members from the voluntary sector.

The NGOs Board will take responsibility for the operational issues relating to registration deregistration and other matters as per the NGOs Act. However,

the Act will need to be comprehensively reviewed to ensure that the NGOs Coordination Board retains the role of managing self-regulation and supervision (provision of oversight).

Coordination mechanisms at provincial, district, division, location and village levels will be established. Membership to these will be diverse and will include Wananchi at those levels.

The NGOs Coordination Board will have a Secretariat to support its operations. It will support the Board's operations in regulation in matters such as registration/deregistration, monitoring and evaluation, and in operational functions such as quality of programs, setting of operating standards, information sharing and in operational aspects such as establishment of linkages/partnerships and in all matters relating to the implementation of this policy.

Whereas the NGOs Coordination Board will take responsibility for development of the voluntary sector in terms of regulation and enablement, the NGOs Council will retain the key responsibility of self-regulation of the sector. In order for the Council to be able to discharge this mandate effectively it will be required, as a matter of policy, to be run by professionally qualified and elected people from the voluntary sector. The NGOs Council will retain the key responsibility for the enforcement of the Code of Conduct and self-regulation.

POLICY STATEMENTS

At national, provincial, district, division, location and village levels, appropriate frameworks and mechanisms will be established to facilitate communication, resource use, common agenda setting, cooperation, coordination and consultation between the government, NGOs, communities and other stakeholders. A strengthened NGOs Coordination Board will be expected to play a key role in this.

The NGOs Coordination Board will be expected to provide leadership in encouraging the formation of partnerships at all levels in order to fully realize the fruits of intersectoral synergies and coordination as well as cooperation in the operations of NGOs in Kenya

4.3 NGOs COORDINATION BOARD

The NGOs Coordination Board will be the body with the responsibility of coordinating operations of NGOs in Kenya. It shall have the responsibility for developmental and external governance issues in the voluntary sector. It will take responsibility for registration of NGOs, setting of standards, auditing and reporting on activities of NGOs, monitoring and evaluation of NGO activities and provision of guidance to the sector in terms of policy direction.

The functions of the Board, will include coordinating and facilitating the work of NGOs, maintaining the register of NGOs, receiving and discussing reports of NGOs, advising the government on the activities and role of NGOs, providing policy guidelines to NGOs, approving reports of the NGOs Council and approval of the NGO Code of Conduct operated by the NGOs Council.

The functions of the Board will be consolidated further in order to facilitate it to provide the necessary regulatory and enabling environment for coordination of NGOs in Kenya.

The Board will work closely with the NGOs Council.

The government and other stakeholders will be required to adequately fund the activities of the Board. However, the funding should not compromise the independence of the Board in fulfilling its mandate.

The Board may raise funds from other sources as and when need arises. The capacity of the Board will continually be enhanced through training of officials, independence in decision-making and through organization reform. The NGOs Coordination Board shall consist of members representing NGOs and the government but the composition of the Board will be reviewed from time to time with a view to giving the Board more independence in decision-making.

POLICY STATEMENTS

The NGOs Coordination Board will be strengthened and given full authority to enforce its mandate. The government supports the Board's operations and recognizes that the Board should operate without undue interference from the government ministries and departments.

The Government shall engage with the voluntary sector operators at all levels through the NGOs Coordination Board.

4.4 THE NGOs BOARD'S SECRETARIAT

The current Bureau of the Board will be renamed as the NGOs Co-ordination Board Secretariat. The NGOs Coordination Board's Secretariat will operate as directed by the Board.

POLICY STATEMENTS

The NGO Board's Secretariat will facilitate the NGOs Coordination Board in the discharge of its mandate.

The Secretariat will be staffed by qualified professionals.

4.5 NGOs NETWORKS AND FORA

Networking, collaboration, coordination and creation of intersectoral synergies within the NGOs sector are most effectively achieved if there is a national NGOs body to facilitate such cooperation. This will assist NGOs in putting forward their different concerns to the public, government, communities and the International community.

The body for the achievement of the above purposes shall remain the **National Council of NGOs**, which will be expected to create and maintain the necessary working relations in the sector.

For the purpose of self-regulation and networking among the NGOs, NGOs shall be responsible to the NGOs Council. The Council shall be required to establish its own structures, rules and procedures for networking purposes. In order to discharge the above roles for self-regulation, the NGOs Council shall be expected to consult with the NGOs Coordination Board, government ministries and other stakeholders involved in the networking mechanisms.

POLICY STATEMENTS

The self – regulatory role of the NGOs Council and its members will be enhanced through the strengthening of the regulatory committee of the NGOs Council. The committee will retain the key responsibility of enforcing the Code of Conduct.

The NGOs Council will be required, as a matter of policy, to enforce the code of conduct uniformly, fairly and professionally. The NGO Coordination Act of 1990 will need to be revised in order to formally establish the regulatory committee, among other necessary actions.

The self – regulatory committee will have powers to hear all matters relating to the Code of Conduct. It will be the first stage mediation/arbitration body on matters relating to the Code of Conduct.

Once a matter is filed with the Regulatory Committee such a matter will not be referred to any other party until the matter is determined.

Civil and Criminal jurisdiction shall remain vested in the relevant legislation, Laws of Kenya.

4.6 LEGAL FRAMEWORK

The protection of the freedom of association is enshrined in the Universal Declaration of Human Rights (UDHR) of 1948. Kenya has ratified this declaration. It states that every one has the right to freedom of peaceful assembly and association.

Kenya is a party to the International Conventions such as the Economic, Social and Cultural Rights (ICESCR), 1966, and ratified since January 3, 1976. The Convention creates a legal obligation for all states to submit periodic reports to the relevant UN Committee.

Another binding multilateral treaty ratified by most African states, including Kenya, is the International Covenant of Civil and Political Rights (ICCPR), 1966. The Covenant states that every one shall have the right to freedom of association with others, including the rights to form and join trade unions for the protection of his/her interests.

At the regional level the East African Cooperation treaty captures the spirit of promoting a supportive and conducive operational environment for NGOs. The treaty provisions enjoin states to facilitate and ensure public participation

and civic involvement in decision making both at the national and regional levels.

The Constitution of Kenya has provisions of direct relevance for NGOs such as freedom of speech, assembly and association. These fundamental rights and freedoms of individuals are protected under the Constitution. However, there are certain constitutional limitations on these rights and freedoms provided for under the law. Such law must be reasonably justifiable in a democratic society.

The existing fragmented and uncoordinated legal and institutional framework gives NGOs multiple avenues for registration. This makes coordination difficult. Such legal and institutional frameworks will need to be harmonized. The NGOs Coordination Board, the NGOs Council and other stakeholders shall play a key role in the harmonization process.

POLICY STATEMENTS

This policy recognizes the provisions of international conventions and treaties governing the operations and activities of NGOs. It also recognizes various international agreements that have a bearing on the operations of NGOs.

The power to determine the existence of NGOs and where appropriate to deregister will be vested in the NGOs Coordination Board.

Civil and Criminal matters shall be handled through relevant legislation as provided for in the Laws of Kenya.

The Board in consultation with Council shall play a key and leading role in the formulation of the appropriate legislation. NGOs shall be registered as per the provisions of the law.

The review of the NGOs Act will follow the formulation of this Policy.

Any possible restrictions on the operations of any NGO will be those contained in or done under the authority of the law or those shown to be reasonably justifiable in a democratic society.

NGO's will have recourse to the courts as and when necessary.

4.7 EXCHANGE OF INFORMATION

To encourage exchange of information among NGOs, in order to share knowledge and enhance effective utilization of resources

POLICY STATEMENTS

The NGOs Coordination Board in consultation with Council shall take initiatives to publish and update NGO Directories in order to facilitate networking and exchange of information.

NGOs shall be expected to provide information to the Board and other stakeholders relating to their objects of association- The Constitution, Annual report, Audited Accounts, Strategic Plans and operational area(s)

Every NGO shall become a member of the NGOs Council after registration by the NGOs Coordination Board.

The NGOs Coordination Board , through the relevant ministry, shall provide information on NGO activities so as to promote information exchange between the government and NGOs.

4.8 NGOS ACCOUNTABILITY AND TRANSPARENCY

In carrying out their operations and in communicating information about their work, local and international NGOs operating any where in Kenya shall observe the following provisions.

- i. Adhere to the provisions of the NGO Board's operations, its directives as appearing in the Act and to membership requirements established by the NGOs Council.
- ii. Work closely with government ministries and departments, and other civil society bodies in their area of operation.
- iii. Observe the NGOs Council Code of Conduct for the purpose of accountability and transparency.
- iv. Where necessary disclose their sources of funds and purposes for which the funds will be utilized to the NGOs Coordination Board.

- v. Engage in competitive procurement activities and shall have equal opportunity employment policies.
- vi. Operate centres for information dissemination and acquisition.
- vii. Make available the Code of Conduct to local communities, government departments, NGO networks and to other interested stakeholders in their areas of operation. NGOs may engage in all legally and acceptable fund raising activities.

International NGOs will be encouraged to work with the host communities local NGOs in the areas of their operations NGOs will be accountable to the NGOs Council and local communities on issues relating to the Code of Conduct and to all their other stakeholders in the delivery of services

POLICY STATEMENTS

NGOs shall

- i. Work closely and in partnership with the Board.**
- ii. Respect the Kenya Laws governing their operations.**
- iii. Respect the culture and traditions of the local people and communities in which they operate at all times act to foster and promote the capacities and abilities of other local NGOs and other civil society bodies, including participating in relevant NGO fora and networks and avoiding actions which may cause duplication of effort, rivalry or competitions among the NGOs in their areas of operations.**
- iv. Follow prudent financial management practices and shall be required to avail such statements to their stakeholders for auditing purposes.**
- v. Operate in accordance with the Code of Conduct.**
- vi. Always seek to involve and respond to local communities in the identification of issues and needs, implementation of projects and evaluation of impact**
- vii. Always strive to respect the dignity of communities in need while raising funds.**

4.9 GOVERNMENT – NGOS PARTNERSHIP

The government will work in partnership with NGOs in the delivery of public services and programmes in the spirit of mutual respect and trust. The government will subcontract NGOs to undertake programmes, where NGOs

will have comparative advantages and will have expressed interest to get involved.

The government will encourage the strengthening of the capacity of the recipient communities or empowerment of the communities in conjunction with voluntary sector and private sector operators.

The government will involve NGOs in policy decision making on issues affecting them, particularly at the local levels, and every Ministry will designate officers to deal with matters relating to NGOs. The officers will work closely with each other and the NGOs Coordination Board.

Departments of the government operating at the community will be required to incorporate NGOs activities in their development plans. They will be expected to join the NGO fora and networks in their areas of jurisdiction

In order to further development work the government shall develop partnership with NGOs and other stakeholders in all the sectors of the economy.

The government may exempt NGOs from taxation and will, where possible, share its resources e.g. use of government conference facilities, vehicles, offices and buildings etc during consultative meetings with government departments and other stakeholders.

The government will encourage continuing dialogue with NGOs as partners in development and will respect the role and autonomy of the NGOs Co-ordination Board and the NGOs Council as the bodies with key responsibility for NGOs operations.

POLICY STATEMENTS

The Government recognizes the significant role and contributions of NGOs in the society and considers them important partners in the development process. It will, therefore be in the interest of the government to create a conducive and enabling environment to ensure that NGOs potentials and capacities are fully utilized.

The Government will encourage on-going dialogue with NGOs with a view to making the partnership effective and efficient.

5.10 NGOS CAPACITY BUILDING

Capacity involves strengthening NGOs to fulfill their roles and mission. The government is aware that NGO capacity building in the past, the world over has been characterized by tokenism, fragmentation and inconsistency, as well as by the lack of a systematic focus.

The NGOs Council will encourage the building of capacity within the NGO sector through several ways:

- i. Building and enhancing the capacity of the NGO
- ii. Coordination Board.
- iii. Requiring NGO networks at all levels thus enabling
- iv. NGOs to help each other and to create inter-sectoral synergies.
- v. Demanding participation of communities in the decision-making activities of NGOs. This should facilitate the sharing of management responsibilities.
- vi. Involvement of public universities and government training institutions in the training of NGO staff.
- vii. Initiating the development of curricula for the training of NGO workers and also through open and transparent staff recruitment.
- viii. Taking a lead in the development of a website for NGOs, forums in every region, and documentation centers in districts and divisions and within Local fora operating departments of government ministries.
- ix. Accessing of funding for NGO activities through local authorities, private sector, government ministries and departments at the local level.
- x. Through enforcing of counter part financing (even in kind) by Local Authorities and government ministries and departments, as well as by communities for sustainability purposes.
- xi. Through provision of a training component for NGOs workers in any funded project.
- xii. Through encouraging NGOs to explore the formal business sector for support among others.
- xiii. Through encouraged peer evaluation within the NGOs sector
- xiv. Through supporting the initiatives of the NGOs Council members aimed at self-regulation of the NGOs sector

5.11 NGOs SUSTAINABILITY

Sustainability in this policy document is defined as an NGOs' ability to improve its institutional capacity to continue its activities among target communities over an extended period of time; maximization of its impact

through provision of quality services and products; minimization of financial vulnerability and development of diversified sources of institutional and financial support.

NGOs will be expected to continually improve their organizational management structures and skills.

NGOs will be expected to write strategic plans showing clearly their missions, visions and strategic intents

NGOs will be expected to have clear human resources policies and procedures – hiring, training, promotions, use of locally available expertise/materials, succession management training and salary structures among others.

NGOs will be expected to develop local communities in their areas of operation and to involve them in decision making, management activities and in discussions in the networks and other fora in their areas.

NGOs will be expected to forge links with government ministries/departments, CBOs, private sector, cooperatives and other bodies in their areas of operation in order to create inter-sectoral synergies and coordination for sustainability purposes.

POLICY STATEMENTS

All NGOs shall be required to build the capacity of the communities in which they operate.

International NGOs shall through this policy, support local NGOs through training, transfer of technology, subcontracting their tasks at the grass roots level seconding out personnel, equipment and sharing of information.

All NGOs shall be required to recruit local NGO specialists or professional managers and other staff on merit.

All NGOs shall be expected, as a matter of policy, to upgrade the skills of all their employees.

Expatriate staff working with International and regional NGOs shall encourage the training of locals in their areas of operation.

All NGOs shall be required as a matter of policy, to reach agreements with the NGOs Coordination Board, on the above issues before commencement of operations