

LAWS OF THE NEW SUDAN

THE NON-GOVERNMENTAL ORGANIZATIONS ACT, 2003

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(PROVISIONAL ORDER)

Laws of the New Sudan

The Non-Governmental Organizations Act, 2003

Chapter One

- Section 1. Title and Commencement:-** this Act may be cited as “The Non-Governmental Organizations Act, 2003” and shall come into force on the date of signature by the Chairman.
- Section 2. Repeal and Saving:-** The Non-Governmental Organizations Act, 1994 is hereby repealed, provided all proceedings, orders and regulations issued, or made thereunder shall be valid till repealed or amended in accordance with the provisions of this Act.
- Section 3. Definitions:-** In this Act, unless the context otherwise requires, the following words and phrases shall carry the meanings herein attached to them:-
- “Non-Governmental Organization (NGO)”** means a voluntarily formed organization or association with a written Constitution stating the aims and objectives of that organization or association for the promotion of social welfare and charity through mobilization of private resources regardless of whether these resources were internally or externally raised. Without prejudice to the generality of this definition, this shall include, Churches, Mosques, synagogues, Indigenous Religious Communities or other Relief, humanitarian, Religious organizations or associations operating in the New Sudan in accordance with the provisions of this Act.
- “Board”** means the NGOS Coordination Board established by section 6 of this Act.
- “Certificate”** means certificate of registration issued under Chapter four of this Act.
- “Registrar”** means a public servant authorized by this Act to issue certificates for the registration of NGOS.
- “Project”** means a humanitarian relief, and service delivery project developed by NGOS in coordination with the SRRC and implemented by an NGO alone or in partnership with SRRC or any other local organization, group or community.
- “Programme”** means a project plan of action.
- “Project assets”** means those assets which are for the direct use by project beneficiaries or are integral to the running and sustainability of the project.
- “NGO assets”** means those assets listed in the project Agreement which are owned by the agency in the field of its operations.
- “Counter-part”** means the community group, local authority or the SRRC responsible for the technical implementation of the project.

“Area” means a geographical territory under the direct control of the Civil Authority of the New Sudan (CANS).

“SRRC” means the New Sudan Relief and Rehabilitation Commission, the humanitarian wing of CANS.

Chapter Two

Principles Governing NGO Intervention

Section 4. The NGOS humanitarian intervention in the New Sudan shall be governed by the following principles:-

- a) Non-discrimination on the ground of race, ethnic group, political affiliation or religious beliefs, disability or gender.
- b) Impartiality in the selection and designation of project areas with special consideration to areas of greater humanitarian need.
- c) Accountability to donor community, beneficiaries and relevant public authority for all services delivered in the field.
- d) Building of Local Capacity with the view of an ultimate independence from International NGO control.
- e) Sustainability of NGOS intervention shall, in the long term create self-reliance of the local community.
- f) Projects for relief, and humanitarian service delivery shall be implemented through NGOS whose goals are consistent with the public policies and interests of the beneficiaries.
- g) At all stages of project implementation, local community interest, to service delivery shall be taken into account through a participatory approach.
- h) Cooperation with the NGOS shall be on the principle of NGO non interference in the affairs of the New Sudan.

Section 5. The main objective of NGO activities in the New Sudan shall be to provide the following services:-

- i) Relief services for the war affected and vulnerable people due to natural disasters.
- ii) Care for the Internally Displaced Persons (IDP), refugees and returnees through resettlement programmes.
- iii) Rehabilitation of Socio-economic infrastructure destroyed by war or natural disasters in cooperation with the SRRC or any other similar organizations that may be established for that purpose.
- iv) Implement relief, repatriation, resettlement, rehabilitation and any other, humanitarian activities as determined and prioritized by the beneficiaries, the SRRC and the Local Authorities.
- v) Determination of priorities for relief, repatriation, resettlement and rehabilitation in consultation and coordination with the SRRC and the relevant Civil Authority.

Chapter Three

Establishment, Functions and Powers of the NGOS Board

- Section 6.** There shall be established under this Act, a Board to be known as the Non-Governmental Organizations Board hereinafter referred to as “The Board” and abbreviated “NGOB” .
- Section 7.** The Board shall have the following functions:-
- a) facilitate and coordinate the work of all the national and International non-governmental organizations operating in the New Sudan.
 - b) advise authorities on the activities of the Non-Governmental Organizations and their role in the Relief, Rehabilitation, and Resettlement of the Internally Displaced persons, refugees entering the New Sudan or returnees from the diaspora.
 - c) maintain the register of national and International Non-Governmental Organizations operating in the New Sudan, with precise sectors, affiliations and location of their activities.

- e) conduct regular review of the register to determine its consistency with the reports submitted by the Non-Governmental Organizations.
- f) provide policy guidelines to the Non-Governmental Organizations for harmonization of their activities with the national development plans.
- g) receive, discuss and approve the code of conduct prepared by the SRRC for the regulation of the Non-Governmental Organizations activities in the New Sudan.
- h) receive, discuss and approve regular reports from the SRRC and advise on strategies for the effective and efficient Non-Governmental Organizations activities in the New Sudan.
- i) recommend registration of NGOS after which the registrar shall process the registration in accordance with the provisions of Chapter four of this

Act.

Section 8. (1) Composition of the Board:

The Board shall consist of:-

- a) Commissioner for Foreign Affairs-Chairperson;
- b) Commissioner for Interior – Member;
- c) Commissioner for Legal Affairs-member;
- d) Commissioner for Finance-member;
- e) Commissioner for Health-member;
- f) Commissioner for Education-member;
- g) Commissioner for Woman and Child Welfare-member;
- h) The Executive Director of SRRC – Secretary.
- i) Representative of Civil Society appointed by the Board – Member.
- j) Representative of the disabled, wounded heroes, And widows - Member.

- 2) The Executive Director of SRRC shall be an ex-officio member of the Board.
- 3) The Board shall meet at least four (4) times a year but the Chairperson may after consultation with the Secretary or upon a request by five members convene an extra-ordinary meeting of the Board.
- 4) The quorum for the transaction of the business of the Board shall be seven (7) members.
- 5) All matters in a meeting of the Board shall be determined by a simple majority of the members present and voting.
- 6) In case of a tie, the Chairperson shall have a casting vote.
- 7) The Board shall cause the minutes of all the proceedings of its meetings to be entered in books kept for that purpose.
- 8) Subject to the provisions of this Act, the Board shall regulate its proceedings, and rules of conduct.

Chapter Four

Registration

Section 9. Every Non-Governmental Organization shall be registered in the manner specified hereunder:

- i) Applications for registration shall be submitted to the registrar of Societies at the Secretariat for Legal Affairs and Constitutional Development.
- ii) An application for registration shall be made by the Chief Executive of the proposed NGO.
- iii) The application for registration under this section shall be accompanied by a certified copy of the constitution of the Non-Governmental Organization proposing to register in the New Sudan.

- iv) The application for registration of an NGO shall be accompanied by a non refundable fee as the Board may determine from time to time.
- v) The application shall be accompanied by an official recommendation from the Board.

Section 10. Every NGO registered under this Act shall be issued with a certificate of registration.

Section 11. A certificate of registration shall be a conclusive evidence of authority to operate throughout the New Sudan or in such parts of it as shall be specified therein.

Section 12. A registered NGO shall, by virtue of such registration be a body corporate capable of suing and liable to be sued in its own name.

Section 13. A certificate issued under this Act may contain such terms and conditions as the Board may prescribe, provided that such terms and conditions are within the spirit of this Act.

Section 14. The Board may refuse registration of an NGO if:-

- (i) a) The activities of the NGO are incompatible with the humanitarian principles as prescribed in Chapter two of this Act.
- b) The application contains a false information or suffers from a procedural defect.
- c) An NGO fails to submit a constitution as required by this Act.
- d) An NGO fails to submit a budgeted programme of action for its project in the field of operations.
- e) An International NGO fails to obtain work and residence permits for its expatriate staff employed in the New Sudan.
- f) Its registration constitutes a security risk to the New Sudan.
- (ii) The reasons for the refusal to register an NGO may not be given by the Board.

Chapter Five

RENEWAL OF REGISTRATION

Section 15. Renewal of Certificate of Registration

- 1) An NGO, three months before the expiry date of its registration certificate, shall apply to the Registrar of Societies for renewal of its certificate.
- 2) On receipt of an application for renewal under subsection (1) of this section, the Registrar may issue a provisional certificate to take effect from the expiry date of the previous one.
- 3) At the time of issuing a new certificate under this section, the Registrar may vary the terms and conditions attached to the certificate, provided that such variation is within the Law.
- 4) If the certificate expires before the Registrar takes a decision on the application for renewal, the NGO concerned shall continue to operate as if the certificate is valid till the Registrar decides on the application.
- 5) If an NGO does not apply for the renewal of registration till the expiry date, the NGO shall be deemed to have decided to discontinue its activities in the New Sudan and therefore ceases to operate.

Section 16. 1) The Board may cancel or suspend a certificate issued under this Act, if it is satisfied that:-

- a) The terms or conditions attached to the certificate have been violated.
 - b) The provisions of this Act have not been complied with.
 - c) The SRRC or any other competent authority has submitted a satisfactory recommendation for the cancellation or suspension of the certificate.
- 2) Notice of the cancellation or suspension of a certificate shall be served on the organization in respect of which such cancellation or suspension

relates and shall take effect within fourteen (14) days from the date of service.

Chapter Six

Exemption From Registration

- Section 17.** The United Nations and its Specialized Agencies shall be exempted from the requirement of registration under this Act.
- Section 18.** An organization established by a State or group of States for welfare, relief, public health or any other form of development assistance may be exempted from registration by the Board.
- Section 19.** Churches, Mosques, synagogues and other religious societies shall not be exempted from registration requirement and they shall be legally obligated to identify which organizations or associations fall under them.

Chapter Seven

Employment and Engagement Of NGO Staff

- Section 20.**
- i) All the NGOS shall employ and engage only qualified staff as Required by projects needs.
 - ii) International NGOS may employ or engage foreign nationals provided that they shall obtain work permits for expatriates purporting to work in the New Sudan;
 - iii) International NGOS employing or engaging expatriates, shall gradually reduce their foreign staff in favour of qualified nationals of the New Sudan to hold top management positions in the NGOS projects.
 - iv) In order to promote capacity building of Nationals of the New Sudan, NGOS shall prepare monitorable training programmes for technical positions in the NGOs projects;
 - v) Every national of the New Sudan employed or engaged by an NGO shall receive a pecuniary payment on the basis of equal pay for equal jobs;

- vi) In the event of a national of the New Sudan employed or engaged as a counter-part and paid by an NGO, is proved incompetent for the job, by the NGO, he shall be withdrawn from the project, provided that a prior notice of one month duration is given stating the reasons for the decision through the SRRC.
- vii) Any person withdrawn in accordance with the provisions of subsection (vi) of this section, shall be paid remuneration equal to a salary of three (3) months in every year he was on secondment to that NGO project.
- viii) A counter-part seconded to an NGO project as in subsection (vi) of this section may be withdrawn for reasons, other than on the grounds of incompetence or unsuitability for that job, provided that he is paid a remuneration equal to one month salary.

- Section 21.**
- i) All NGOS operating in the New Sudan shall employ skilled and unskilled labourers from the New Sudan Nationals with the consent of the Secretariat of Public Service and Human Resources Development.
 - ii) All NGOS may engage professional expatriate staff, only where there are no qualified New Sudan Nationals.

Chapter Eight

Financial Provisions

- Section 22.** All the NGOs funds, expatriate staff salaries and all humanitarian supplies and services shall be exempted from all forms of taxation, provided that goods for ordinary consumption of NGOs staff shall be subject to laws relating to import and export Licenses, Customs and excise duties

- Section 23.**
- i) All the salaries and incentives paid by the NGOs to the New Sudan National employed by them, shall be subject to Income Tax.
 - ii) All the NGOS shall be directly responsible for the collection and payment of the income tax under subsection (i) the Secretariat of Finance and Economic Planning.

- Section 24.** i) Airstrip maintenance fees for aircrafts owned or chartered by NGOS shall be payable to the appropriate authorities as directed by Secretariat of Finance and Economic Planning.
- ii) Road tolls for vehicles owned shall be paid to the appropriate authorities at points of entry into or exit from the New Sudan.
- iii) Fees for the registration and renewal of licences for NGOS vehicles, radio communication sets, telephones, faxes and professional staff etc., shall from time to time be prescribed by the Secretariat of Finance and Economic Planning and payable to the appropriate authorities.
- Section 25.** The Board shall in consultation with appropriate authorities, facilitate access to buildings or land for the temporary use by NGOS for the purposes of project implementation, provided that they pay for the facilities or construct permanent building on the land.

Chapter Nine

NGOs Reporting Requirement

- Section 26.** Every NGO registered and operating in the New Sudan shall Prepare and render the following reports to the SRRC:-
- a) Quarterly progress report.
 - b) Annual progress report.
 - c) A certified copy of annual Audit report.
 - d) Budgetary summary, including substantial changes in the work plan.
 - e) Report any funding difficulties in the course of the project implementation.

Chapter Ten

Offences And Penalties

- Section 27.** It shall be an offence for any person or persons to operate a Non-Governmental Organization in the New Sudan without a registration certificate in accordance with the provisions of this Act.
- Section 28.** It shall be an offence for any NGO or its employees to engage in activities of commercial nature or profit-making adventure.
- Section 29.** It shall be an offence under this Act for an NGO to employ or engage expatriate personnel without a valid work permit.
- Section 30.** Any NGO or staff accused of an offence under this Act or any other Law in force, shall on conviction, be liable to a fine not exceeding (\$1000) US Dollars, or with imprisonment for a term not exceeding six months or with both and in case of an expatriate, shall also be expelled from the New Sudan.
- Section 31.** Whoever is convicted under this Act shall be disqualified for a period of five (5) years from holding an office in any organization operating in the New Sudan.

Chapter Eleven

Miscellaneous Provisions

- Section 32.** NGOS and their staff shall at all time respect the generally recognized traditions, religious beliefs, customary practices and cultural values and shall refrain from all acts or omissions which may cause disaffection or misunderstanding between them and the local communities.
- Section 33.** Radio operators shall be provided by the appropriate authorities to the NGOs.
- Section 34.** The SRRC shall in consultation with appropriate authorities, facilitate access to projects areas or potential areas of need for purposes of assessment, conduct of surveys, and monitoring of NGOs operations in the field.
- Section 35.** In the event of a national NGO, civil authority, community or the SRRC taking over an International NGO project with the aim of continuing its implementation, the project assets, and supplies shall be recorded in writing, stored and shall only be used for the continuation of the same project.

Section 36. If a document or constitution of an NGO is in a language other than English language, an authenticated translation into English Language shall be provided and the English text shall prevail in the event of a contradiction.

Section 37. The Board shall make rules and regulation for the effective and efficient implementation of the Provisions of this Act.

Given under my hand this _____ day of _____ Year 2003 AD

Dr. John Garang deMabior

Chairman

SPLM/CANS