



# INTERIM REPORT TO THE OFFICE OF THE ATTORNEY GENERAL ON THE DRAFT CSO BILL

DATED 31 JULY 2018

At a recent meeting between Civil Society Bahamas and the Office of the Attorney General dated 17 July 2018, there were several issues that were discussed relating to the Draft CSO Bill that required further clarification. The substantive issues are as follows:

## 1. Legal Clarification/Legal Opinion

- 1.1. After two recent workshops that took place in Nassau and Eleuthera to solicit feedback on the draft CSO Bill, further legal clarification and or legal opinion was requested to assuage concern and fears on the following matters:
  - 1.1.1. Stand-alone, summary definition of a Civil Society Organisation, as distinguished also from a non-governmental organization. [Rationale: greater clarity and coordination among:
    - 1.1.1.1. Clause 2 “Interpretation” (“organisation”),
    - 1.1.1.2. Clause 4 “Mission of registered civil society organisations”,
    - 1.1.1.3. Clause 5 “Attributes of civil society organisations”, and,
    - 1.1.1.4. Clause 6 (2) “Types of registered civil society organisations”]
  - 1.1.2. Desired principle of non-discrimination among civil society organizations and equal access to information by non-registered civil society organizations under the proposed Civil Society Act. [Clause 20 (1) “Access to information”]
  - 1.1.3. Status and/or incorporation of all civil society organizations under the proposed Civil Society Act: existing registered civil society organizations (CSOs), charitable organizations, non-profits, etc. This should be predicated on an updated audit of all Legislation that impacts CSOs. [Clause 6 “Types of registered civil society organisations”]

- 1.1.4. Does the Office of the Registrar General negate the need for Part III ["Registration of Civil Society Organisation"]?
- 1.1.5. Is the scope of Registration adequately covered under either scenario - Office of the Registrar General, Part III of the CSB, for example, with respect to timely processing of registration? Clause 9 (3) (b) ["Registration of civil society organisations"] raises this issue in a more restrictive context.
- 1.1.6. What is best international legal practice to cover ICT, inclusive of ICT Security? Clause 13 (7) (c) ["Register to be open to the public"] therefore needs to be looked at more comprehensively.
- 1.1.7. Is the Dispute Settlement function adequately covered in the CSB? Context: the concern that additional, more innovative and less costly options need to be incorporated into the proposed Act beyond what is stated in Clause 9 (6).
- 1.1.8. What is best international legal practice for:
  - 1.1.8.1. timely, effective, cost-efficient appellate recourse, including against the Government?
  - 1.1.8.2. retention of direct Legal Counsel for CSOs in need
  - 1.1.8.3. placement of Accountability Regime: Annex; Appendix; Regulations?
- 1.1.9. What is best international practice in respect of checks and balances, for the effective functioning of a Tripartite Partnership?
- 1.1.10. Are Final Clauses adequately represented in the Bill?
  - 1.1.10.1. Can lack of reporting become a basis for suspension?
  - 1.1.10.2. Strengthening the responsiveness and sustainability of the proposed Act by inclusion of a Review clause, such as a biennial conference.
- 1.1.11. What is the best mechanism to guarantee autonomy? Should an independent body replace the the Minister and Secretariat? Evaluate in this regard, the Tripartite Partnership and the BCSU (Bahamas Civil Society United). [Clause

17 “Role of Minister” and Clause 18 “Establishment of Civil Society Secretariat”, refer] Please see also Appendix 2 hereto.

- 1.1.12. Please note: there are editorial inconsistencies and spelling [eg. both “organisation” and “organization”] in the Bill which need to be corrected.

## **2. Dormant Accounts**

- 2.1. It is our wish for the draft Bill to make mention of Dormant Accounts and their intended use. According to the Tribune article dated 10 May 2017<sup>1</sup>, The Central Bank was at that time pursuing reforms to legislation governing dormant bank accounts, which grew in volume by 10.2 per cent in 2016 to \$95.3 million by year-end.
- 2.2. Dormant accounts are those that have been inactive for seven years, whereupon they have to be transferred by financial institutions to the Central Bank.
- 2.3. It is our understanding that the Central Bank currently transfers to the Treasurer of The Commonwealth of The Bahamas dormant account balances of less than five hundred dollars, within two months after the receipt of such funds by the Central Bank; and dormant account balances of five hundred dollars or more (plus interest accrued on such balances, if applicable) that the Central Bank has held for twenty-five years, within two months after the end of the calendar year in which the twenty-five year period expires.<sup>2</sup> It is our understanding that it is the Central Bank’s wish to reduce this twenty-five year period to ten years<sup>3</sup>.
- 2.4. Furthermore, dormant account balances paid to the Treasurer pursuant to section 24(3) of the CBBA form part of the Consolidated Fund, vest in the Treasurer for the benefit of The Bahamas, and are disposed of with the approval of both Houses of Parliament.
- 2.5. It is our wish that the Government shall use the money to fund projects for the general good of the Bahamian society; such as, youth programmes, sporting clubs and/or community centres, or to fund and support charitable organisations.

## **3. Staggered Subvention**

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<sup>1</sup> <http://www.tribune242.com/news/2017/may/10/central-bank-eyes-reform-dormant-accounts-hit-95m/>

<sup>2</sup> <http://www.centralbankbahamas.com/download/058951500.pdf>

<sup>3</sup> <http://www.centralbankbahamas.com/download/088861600.pdf>

- 3.1. It is our wish for the draft Bill to invigorate the civil society sector and in this respect we would like to introduce the concept of a staggered subvention. Such application would result in an initial, empowering, transformative *tranche*, followed by progressively smaller ones as the beneficiary organisation becomes self-sufficient, and therefore, no longer in need of subvention. It is the current practice for Government subventions to be granted in small amounts on an annual basis.
- 3.2. Additionally, rather than this generally open-ended arrangement, we would like to explore a limited time frame for subventions, say 3-5 years where, as indicated, larger amounts are given in the earlier years, becoming smaller, to being weaned over time. This would encourage CSOs to seek to become sustainable rather than be perennially dependent.

#### 4. Standards Setting

- 4.1. It is our wish for the envisaged umbrella body in the Bill, the BCSU, to be responsible for the implementation of a self-regulation initiative for civil society promoting a set of values and standards developed by civil society for civil society.
- 4.2. A set of standards intended to influence the governance, behaviours and practices of participating organisations, and, to be consistently applied.
- 4.3. Establishment of the self-regulation initiative must be a civil society-led process; given that the motivation and commitment of members are crucial. All stakeholders must, therefore, be involved in the process from the beginning.
- 4.4. In that regard, self-regulation can be seen as an exercise of self-definition for the civil society sector as CSOs are developing their own standards rather than having them imposed by governments or donors.
- 4.5. Typically standards will address three main domains:
  - 4.5.1. The CSOs' financial practices - financial standards will seek to increase the level of transparency in how funds are managed and used by CSOs;
  - 4.5.2. Its programmatic work - programmatic standards will address how programmes are planned and implemented according to the guiding principles; and
  - 4.5.3. Its governance - governance standards will regulate how organisations are run in order to meet the established principles.

- 4.6. One Eleuthera Foundation has devised 12 standards based on 6 principles and these can be found in Appendix 1.
- 4.7. The most common modalities of self-regulation initiatives, introducing basic information for each and providing case studies from CIVICUS' research<sup>4</sup> conducted on different self-regulation initiatives from around the world are:
- 4.7.1. **1/ Working groups** A working group refers to a collective of CSOs which organise themselves to discuss their own transparency and accountability, share best practices and direct new initiatives.
  - 4.7.2. **2/ Information services** - Information Services refer to initiatives which require the participating organisations to publish a specific set of required data that is relevant to accountability and transparency. It may also serve as a directory of CSOs.
  - 4.7.3. **3/ Awards** - Awards are given in recognition of achievement in transparency and accountability practices through a competitive process. They often aim at rewarding excellence, innovation or good practice.
  - 4.7.4. **4/ Codes of conduct or ethics** - A code of conduct or ethics is a set of standards which is defined and agreed on by a group of CSOs as a guide to their behaviour and practices. A code usually attempts to regulate various aspects of CSOs' operations including governance, accountability, fundraising, etc.
  - 4.7.5. **4 a/ Code of Conduct with Compliance Mechanisms** - A code of conduct with a compliance system means that some mechanisms have been designed to check if a participating organisation is sufficiently following the code's standards in its governance, operations and programmes.
  - 4.7.6. **4b/ Code of Conduct with Sanction Mechanisms** - A code of conduct with a sanctioning mechanism will prescribe actions to be taken against participating organisations if they do not comply with the code of conduct's principles and standards.
  - 4.7.7. **5 a/ Certification or accreditation schemes** - A certification scheme is a way to evaluate an organisation's governance, programmes and practices against a set of standards and norms defined and established by a group of organisations. After proving adherence to these standards the organisation receives a seal of certification or accreditation.
  - 4.7.8. **5b Certification Scheme with Self-Assessment** - A certification scheme implies an entry compliance mechanism, which in this case will be done by the organisations applying themselves. They will have to conduct a periodic

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<sup>4</sup> <https://www.civicus.org/images/stories/CIVICUS%20Self-regulation%20Guide%20Eng%202014.pdf>

auto-evaluation against the scheme's standards and based on the application form developed by the certifier.

4.7.9. **5c Certification Scheme with Peer Assessment** - The initial assessment of applying organisations against the certification scheme's standards is done by designated peer(s).

4.7.10. **5d Certification Scheme with Third Party Accreditation** - An independent third party is responsible for analysing an organisation's compliance with the certification scheme's standards.

4.8. It is our intention to commence with Information Services followed by a Code of Conduct, working our way to a Certification Scheme with Third Party Accreditation.

## **5. Awards Scheme**

5.1. It is our wish for the draft Bill to make mention of an awards scheme for CSOs. According to Civicus, Awards are given in recognition of achievement in transparency and accountability practices through a competitive process. They often aim at rewarding excellence, innovation or good practice.

5.2. Awards entail an open or close call for participants, through which organisations either apply or are nominated. Participating organisations are then evaluated by an independent jury against a set of defined criteria, which for a self-regulation initiative will focus mainly on transparent financial management, information disclosure, innovative practices in accountability, and, on sustainable impact. Awards can be organised in different categories based on the size and budget of the participating organisations. They are typically granted annually by organisations which are involved in the civil society sector, but which are not necessarily CSOs themselves. Judges may include multiple stakeholders such as representatives from the CSO sector, the public, academia, media and the private sector. Most awards do not publicise participants who do not pass the award criteria but actively promote their awardees. The prizes may be composed of a combination of the following: financial gifts, capacity-building packages, membership in relevant umbrella organisations, and public promotion.

## **6. Tax Credit**

6.1. It is our wish that the draft CSO Bill seeks both to invigorate and empower the civil society sector, and in this respect, we would like the Bill to make reference to a tax credit scheme, or tax incentive scheme which would allow certain taxpayers to subtract the amount of the credit they have accrued from the total they owe the state. As we do not have an income tax system in The Bahamas, we would have to look at the tax system in place.

- 6.2. In the United States, donations to qualified charities are considered tax deductible expenses so they can reduce a taxpayer's taxable income, lowering their tax bill.
- 6.3. The IRS imposes several rules for claiming a deduction for charitable contributions<sup>5</sup>:
  - 6.3.1. The taxpayer must donate cash or property. A pledge or promise to donate is not deductible until they actually pay.
  - 6.3.2. The taxpayer must contribute to a qualified tax-exempt organization with 501(c)(3) tax-exempt status, but some organizations, including churches and other religious organizations, are not required to obtain 501(c)(3) status from the IRS. They count as qualified charities regardless, as do trusts and non-profit volunteer fire companies.
  - 6.3.3. The taxpayer must meet several recordkeeping requirements. It includes saving canceled checks, acknowledgment letters from the charity and appraisals determining the value of donated property.
- 6.4. Where Non-Cash Contributions are concerned, the taxpayer must be able to substantiate the fair market value of goods or property they donate, and they will need a written acknowledgment from the charity for this type of gift. The taxpayer must fill out Form 8283 and include this with their tax return if the property is worth more than \$500.
- 6.5. In the United States there are limits on the Charitable Contribution Deduction, where generally a taxpayer can deduct contributions up to 30 or 50 percent of their adjusted gross income depending on the nature and tax-exempt status of the charity they are giving to.
- 6.6. Contributions to for the following purposes are not considered tax exempt:
  - 6.6.1. Political parties, political campaigns or political action committees
  - 6.6.2. Gifts donated to individual people
  - 6.6.3. Contributions to labor unions, chambers of commerce or business associations
  - 6.6.4. Contributions to for-profit schools and hospitals
  - 6.6.5. Contributions to foreign governments

## **7. Tripartite Partnership Arrangement**

- 7.1. Please refer to Appendix 2 on proposed Tripartite Partnership Protocol to implement formally the consultative process envisaged under the Caribbean Community

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<sup>5</sup> <https://www.irs.gov/charities-non-profits/charitable-organizations/charitable-contribution-deductions>

(CARICOM) Revised Treaty of Chaguaramas and the CARICOM Charter of Civil Society.

## 8. Joint Projects

8.1. Please note Civil Society Bahamas has undertaken a Survey of national CSOs which includes their feedback on highest priority issues for them. These highest priority issues should form the substance for initial Joint Projects in the context of the Tripartite Partnership. Whether the responses address capacity-building, or substantive development issues, national and international, the key non-CSO Stakeholders in the Tripartite Partnership have unique experience, resources and contacts/networking possibilities which can bring invaluable support and solutions.

## 9. Appendix 1: One Eleuthera Foundation Standards

PRINCIPLE 1	LEGAL	STANDARD 1	The CSO should seek to be incorporated in accordance with the laws of The Commonwealth of The Bahamas and comply with all regulatory licensing and financial requirements. In addition to the 2014 Regulation, all CSOs should seek to comply with any other local and international legislation, regulation and best practices that is applicable to its constitution, management and operations. ◦ (Note that Section 5 of the 2014 Regulations explicitly states that “A non-profit organisation shall not conduct operations unless registered under the Companies Act (Ch. 308) and in accordance with these Regulations.”)
PRINCIPLE 1	LEGAL	STANDARD 2	All CSO should have written policies and procedures (applicable to the size of the organisation) which establishes the legal obligations and expectations of the organization.
PRINCIPLE 2	GOVERNANCE	STANDARD 3	Each CSO should be led by a Board of Directors. The Board should ensure that there are policies which govern its structure, composition (size and diversity) and the compensation of its members (if applicable). The number and composition of the Board members and the structure of the Board should be commensurate with the size and complexity of the institution.
PRINCIPLE 2	GOVERNANCE	STANDARD 4	The Board should meet regularly to deal with the business of the CSO and have a policy governing the details of its meeting to include frequency, participants required to attend and the consequences of failure to attend meetings. At minimum the Board should meet at least quarterly. Attendance at such meeting may be by digital means unless byelaws dictate



			otherwise.
PRINCIPLE 2	GOVERNANCE	STANDARD 5	The Board of the CSO should set the “tone at the top” and this should be enshrined in a Code of Ethics and Accountability, specific to the Board. This code should detail the legal and ethical duties and obligations in relation to the contents of the governance documents, fiduciary responsibilities, the structure and management of operations. This code should include controls and policies including, inter alia:
			◦ A clearly defined conflict of interest policy for members (which includes, at minimum, an obligation to disclose relationships and/or their family and/ or their interest in entities doing business with the CSO where there is at least 10% ownership and/ or control of the entity.) A conflict of interest policy governing staff, volunteers, consultants, and independent contractors and their families should also be developed;
			◦ A commitment by Board members to understand their collective and individual roles
			◦ The Board's commitment to ensuring the achievement of the organization's goals by creating strategic plans, operational plans, contingency plans, implementing budgets, monitoring and assessing progress and evaluating results;
			◦ The Board's commitment to exercising effective control including implementing adequate compliance, financial, management and risk mitigation controls;
			◦ The Board's commitment to ethics and integrity for its stakeholders including, staff and volunteers; and
			◦ The Board's commitment to accountability and transparency.
PRINCIPLE 3	TRANSPARENCY AND ACCOUNTABILITY	STANDARD 6	The CSO should produce at least an annual report on its activity. This report should be made widely available to the general public. ◦ Small CSOs are not required to have accompanying financial accounts to the annual report audited. Larger, mature CSOs should consider providing reports on activities at least twice a year or more and where required to have audited financial reports these should accompany the annual activities report.

<b>PRINCIPLE 4</b>	<b>FINANCIAL OVERSIGHT</b>	<b>STANDARD 7</b>	All CSOs must maintain adequate financial records of its activities. (See section 12, 2014 Regulations) ◦ To facilitate this all CSOs much have policies governing the budgeting process, the separation and control of accounts, the management of expenditures and the form and content for financial statements. This will also include policies specific to the active management of expenses, income, fundraising and the use of funds, loans and disbursements. The policies should be reviewed and updated in line with the growth of the CSO.
<b>PRINCIPLE 4</b>	<b>FINANCIAL OVERSIGHT</b>	<b>STANDARD 8</b>	All CSOs should prepare an annual accounting of their financial performance. In line with Standard 6 this report should be made widely available to the general public. ◦ Where the CSO has a website, the CSO is encouraged to publish its annual report and financial accounts on its website.
<b>PRINCIPLE 5</b>	<b>FUNDRAISING / DEVELOPMENT AND INFORMATIONAL MATERIALS</b>	<b>STANDARD 9</b>	All CSOs should have policies to govern solicitation and fundraising communications (paper and electronic). At minimum the policy should include the requirement that the CSO produce truthful and clear information in its solicitation and communication materials (including any available supporting evidence).
<b>PRINCIPLE 5</b>	<b>FUNDRAISING / DEVELOPMENT AND INFORMATIONAL MATERIALS</b>	<b>STANDARD 10</b>	The CSO should have documented policies which deal with donor related issues. ◦ One critical challenge is donor privacy. The CSO should have a policy which details its position with respect to the handling of donor information. Other donor related issues that should be governed by this policy include Donor communications, accountability, recording keeping and acknowledgment and contribution compliance. donors should be made aware of the CSOs position on the issues which affect them, and provide documentation to show that they have been advised. For transparency it is also recommended that CSOs reference the provisions of the 2014 Regulations Section 12 in their documentation.
<b>PRINCIPLE 6</b>	<b>MONITORING AND EVALUATION</b>	<b>STANDARD 11</b>	The management of complaints is essential to maintaining trust between the CSO, the donor, the public and government agencies and other entities with whom the CSO engages. All CSOs should develop a complaints policy which assures prompt action and response to complaints.
<b>PRINCIPLE 6</b>	<b>MONITORING AND EVALUATION</b>	<b>STANDARD 12</b>	The CSO should implement a policy that mandates the periodic evaluation of its program effectiveness; efficiency; compliance with applicable legislation, standards and mission objects; its impact in the sector; the Board; and the overall organization itself.

## 10. Appendix 2: Tripartite Partnership Arrangement - Proposed Key Elements for the Protocol

- 10.1. Summary reference to the genesis of the “Tripartite” mechanism, to clarify the value of the mechanism.
- 10.2. Distillation of the best international practice of the functioning of the “Tripartite” mechanism to extrapolate a template for the effective and efficient operation of the “Tripartite Partnership” under the Civil Society Bill (CSB).
- 10.3. Review of the existing, seminal Documents of regional Institutions which directly address Civil Society and a national consultation mechanism to ensure its contribution to sustainable National Development. These documents are:
  - 10.3.1. The CARICOM Revised Treaty of Chaguaramas;
  - 10.3.2. The CARICOM Charter of Civil Society; and
  - 10.3.3. The Caribbean Policy Development Centre (CPDC).
- 10.4. Particularly relevant provisions of these Documents are: (emphases added)
  - 10.4.1. Preamble to the Revised Treaty of Chaguaramas

Determined to enhance the effectiveness of the decision-making and implementation processes of the Community;

**Desirous of restructuring the Organs and Institutions of the Caribbean Community and Common Market and redefining their functional relationships so as to enhance the participation of their peoples, and in particular the social partners, in the integration movement;**

Resolved to establish conditions which would facilitate access by their nationals to the collective resources of the Region on a non-discriminatory basis;

Committed to establish effective measures, programmes and mechanisms to assist disadvantaged countries, regions and sectors of the Community;

**Recalling further the Charter of Civil Society** adopted by the Conference of Heads of Government on 19 February 1997 reaffirming the human rights of their peoples,<sup>6</sup>

### **10.4.2. The Consultative Process**

#### **10.4.2.1. 1. In order to enhance the decision-making process in the Community, the Community Council, assisted by the**

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<sup>6</sup>Preamble - Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy

**Secretary-General, shall, in collaboration with competent authorities of the Member States, establish and maintain an efficient system of consultations at the national and regional levels.**

**2. The system of consultations shall be structured to ensure that determinations of Community Organs and the Legal Affairs Committee are adequately informed by relevant information inputs and are reinforced by consultations undertaken at successively lower levels of the decision- making process.<sup>7</sup>**

#### 10.4.3. Role of Public Authorities

10.4.3.1. COTED shall promote the modernisation of government bureaucracies by, inter alia: **encouraging the development of closer contacts between public sector administrations, industry and other stakeholders** to ensure that challenges presented by the global environment are understood and **co-operative solutions** developed;<sup>8</sup>

10.4.3.2. 7. The States in order to further the participation of the people in the democratic process **shall establish effective systems of ongoing consultations between the Government and the people.<sup>9</sup>**

#### 10.4.4. Social Partners

10.4.4.1. **The States undertake to establish within their respective States a framework for genuine consultations among the social partners in order to reach common understandings on and support for the objectives, contents and implementation of national economic and social programmes and their respective roles and responsibilities in good governance,<sup>10</sup>**

#### 10.4.5. Awareness and Responsibilities of the People

10.4.5.1. The States hereby declare that the people have an important role to play in the pursuit and maintenance of good governance, Accordingly, the States shall build awareness, engender support and establish programmes to foster sound values and positive attitudes and shall enhance individual and institutional capacities to secure objectives, including:

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<sup>7</sup> Article 26 The Consultative Process, Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy

<sup>8</sup> Article 76 Role of Public Authorities, Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy

<sup>9</sup> ARTICLE XVII Good Governance, CARCOM Charter of Civil Society

<sup>10</sup> ARTICLE XXII Social Partners, CARCOM Charter of Civil Society

- (a) the inculcating, nurturing and demonstration of love of one's country;
- (b) the participation in the electoral process;
- (c) the development of a positive work ethic at all levels in society in the recognition of the responsibilities of the people in the areas of production, the economy and the provision of goods and services;
- (d) the sensitising of the people to the importance of continuous skill upgrading, training and broadening of their skills and expertise;
- (e) the building of self-reliance and the engagement in self-help activities, whether alone or in community with others;
- (f) the promotion of awareness of parents to cooperate with and support the school system and programmes aimed at the character formation of students;
- (g) special consideration and support of the young, aged, the disabled and other vulnerable groups;
- (h) the resolution of interpersonal and domestic disputes by peaceful means, such as mediation, reconciliation and otherwise;
- (k) the promotion, establishment and maintenance of community-based organisations.<sup>11</sup>

#### 10.4.6. Reports

- 10.4.6.1. **4. (1) States shall each establish a National Committee or designate a body to monitor and ensure the implementation of this Charter** and that National Committee or body shall comprise:
- 10.4.6.2. (a) representatives of the State;
- 10.4.6.3. (b) representatives of the other social partners; and
- 10.4.6.4. (c) such other persons of high moral character and recognised competence in their respective fields of endeavour.<sup>12</sup>

#### 10.4.7. Implementation

- 10.4.7.1. The States declare their resolve to pay due regard to the provisions of this Charter.<sup>13</sup>

#### 10.4.8. Governance

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<sup>11</sup> ARTICLE XXIV Social Partners, CARCOM Charter of Civil Society

<sup>12</sup> ARTICLE XXV Reports, CARCOM Charter of Civil Society

<sup>13</sup> ARTICLE XXVI Implementation, CARCOM Charter of Civil Society

- 10.4.8.1. 3.1 Governance within Caribbean NGOs shall be guided by good governance principles of equity and inclusion, participation, transparency and accountability
- 3.2 In keeping with the Human Rights based approach articulated in the principles of this Code, NGOs shall refrain from discrimination on the basis of age, class, gender, sexual orientation, minority, geographic location, race, religion or disability in all programmes and staff positions.
- 3.3 NGOs shall:
- a) Ensure that their activities conform to their stated purposes.
  - b) Ensure the participation of stakeholders in the identification, design and execution of the policies, programmes and projects.
  - c) Implement organizational activities conducive to public trust within the NGO sector.
  - d) Ensure that they and their staff maintain a position of political neutrality in their operations and respect the office of all duly elected governments in keeping with the democratic traditions of the region.
  - e) Refrain from deliberate involvement in any activity which might bring the institution into disrepute.
  - f) Exhaust conciliatory solutions to conflicts internally and with third parties
  - g) Be accountable for the actions and decisions, not only to donors and governments but primarily to project beneficiaries and staff.
  - h) Commit themselves to building the capacity of its directors, staff and members to enhance their participation and contribution to the attainment of the organization's missions and goals.
  - i) Ensure that no conflict of interest exists between members of the board or members of the staff in the conduct of the affairs of the organizations and that these persons demonstrate high moral values and integrity.
  - j) Require board members to give the best service as directors at all times acting in the best interest of the organization.
  - k) Promote good relations among and between board members, members, staff and beneficiaries.
  - l) Ensure that serving board members shall not receive a salary, for work or act as paid consultants to the organization except that this work is

offered in a strictly professional capacity for which a reimbursement or stipend may be agreed

m) Maintain the confidentiality of personal information on staff, clients and others, unless the individuals waive this right, or disclosure is required by law. Privileged or confidential information regarding donors or donations shall not be disclosed to unauthorized parties without the authority of the specific donor.<sup>14</sup>

#### 10.4.9. Relations with Beneficiaries

##### 10.4.9.1. 5.1 NGOs shall:

- a) Work with beneficiaries in the pursuit of a just and humane society.
- b) Ensure that relationships with beneficiaries should be based on mutual trust, openness and respect for their autonomy and independence
- c) Give priority to strengthening the capacity of vulnerable groups to achieve autonomy and self-reliance.
- d) Foster meaningful participation of beneficiaries in identification of community needs and design of programmes;
- e) Assist those at risk without any discrimination;
- f) Ensure that all communications shall be respectful of people in every sense<sup>15</sup>

#### 10.4.10. Relations with International NGOs and Donor Partners

##### 10.4.10.1. 7.1 NGOs shall:

- a) Ensure adequate consultations among the sector members on key issues in order to ensure fair representation of the NGO sector's views.
- b) Strive to have their agendas set by members and target communities and shall impress this policy on donor partners and international NGOs;
- c) Work on global issues of concern in concert with donor partners and international NGOs on a basis that does not compromise the integrity of the NGO;
- d) Subject its collaboration with international NGOs and donor partners to the scrutiny and evaluation of its members;

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<sup>14</sup> 3. Governance, Caribbean Policy Development Centre (CPDC), Code of Conduct and Ethics

<sup>15</sup> 5. Relations with Beneficiaries, Caribbean Policy Development Centre (CPDC), Code of Conduct and Ethics

- e) Strive to ensure that modes of collaboration with donor partners reflect the best practices of good partnership, ensuring respect for autonomy, independence and diversity of approaches
- f) Ensure that NGO representation in national, regional and international fora will always be based on an organization's primary mandate and programme focus.
- g) Insist that NGO representatives to international fora have an obligation to report back to the NGO community on the outcomes of their mission.<sup>16</sup>

#### 10.4.11. Relations with Governments

##### 10.4.11.1. 8.1 NGOs shall:

**a) Seek partnerships with Governments based on the processes outlined in the Revised Treaty of Chaguaramas as well as the CARICOM Charter of Civil Society and acting in adherence to the principles outlined in the Code Ethics and Conduct**

- b) Ensure that Government partnerships shall be undertaken on the basis of mutual respect for the independence, autonomy and diversity of approaches of all partners
- c) Participate where appropriate in dialogue and cooperation with Government agencies towards the attainment of sustainable human development.<sup>17</sup>

#### 10.4.12. Monitoring and Evaluation of Programmes

##### 10.4.12.1. 10.1 NGOs shall:

- a) **Develop and promote clear and measurable impact indicators for all programmes and projects undertaken** in order to gauge their relevance and effectiveness.
- b) Formalise various monitoring and evaluation tools to gauge performance in relation to established objectives goals of activities.
- c) Provide to the public the findings of any assessments or evaluations of projects.<sup>18</sup>

<sup>16</sup> 7. Relations with International NGOs and Donor Partners, Caribbean Policy Development Centre (CPDC), Code of Conduct and Ethics

<sup>17</sup> 8. Relations with Governments, Caribbean Policy Development Centre (CPDC), Code of Conduct and Ethics

<sup>18</sup> 10. Monitoring and Evaluation of Programmes, Caribbean Policy Development Centre (CPDC), Code of Conduct and Ethics



#### 10.4.13. Upholding the Code

10.4.13.1. The Code contributes to the recognition of NGOs as Social Partners in Development and providing for their registration and general operations in CARICOM countries. Enforcement of the Code is within the authority of the **NGO Commission** provided for in the NGO Act. The Code affirms the values and principles of the CARICOM Charter for Civil Society **and is offered as a civil society pledge of good faith in the positive engagement between policy makers and practitioners in the interest of sustainable human development** in the Caribbean. In the pursuit of excellence in all areas of operations within the development sector, NGOs shall observe the stated good practices.

This Code is applicable to: all members and prospective members of CPDC; any persons and organizations seeking to benefit from CPDC's programme and any other NGO willing to sign on.

Members of the CPDC and all individuals or groups who act for and/or on the behalf of the signatories are expected to adopt, sign this Code of Conduct and Ethics at each biannual CPDC Assembly and may indicate in their promotional materials that they subscribe to the Code. These Signatories will be the primary agents through which adherence to the Code will be promoted among NGOs. Each signatory to the Code is charged with observing, respecting and upholding the standards of this Code and with assisting other NGOs to adopt and maintain the Code.<sup>19</sup>

#### 10.4.14. Monitoring and Evaluation

10.4.14.1. 13.1 Signatories to the Code shall:

- a) Monitor and evaluate the ways in which the Code impacts peoples' behaviour and organizational culture. Specifically, NGOs shall monitor how the organization conducts business in light of the requirements of the Code of Ethics and Conduct.
- b) Individually and collectively shall be responsible for monitoring themselves and their performance in relation to the requirements of the Code of Conduct.
- c) Ensure that monitoring and evaluation of the compliance to the Code is shared between management and staff.
- d) Be charged with the responsibility of bringing to the attention of the NGO Commission breaches of the Code. In the event of a complaint being

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<sup>19</sup> 11. Upholding the Code, Caribbean Policy Development Centre (CPDC), Code of Conduct and Ethics

brought against an organization under the terms of the Code, signatories to the Code shall co-operate with the NGO Commission to achieve reconciliation and maintain the integrity of the Code.<sup>20</sup>

#### 10.5. National Consultation Mechanism

- 10.5.1. To meet the competing concerns of: demonstrated independence of Stakeholders; equality; maximization of Stakeholder resources; financial, technical, influential; broadest and deepest sustainable impact; transparency; and, accountability, consideration can be given to a National Consultation Mechanism, called for in Article XXV, 4. (1) of the CARICOM Charter of Civil Society, constituted as a 'Steering Committee', or, 'Board' of the Tripartite Partnership, with a core membership of Government Representative(s), Private Sector Representative(s), and Civil Society Bahamas Representative(s).
- 10.5.2. In order to overcome the indicated competing concerns, there can be instituted, rotating membership among all Sectors within the Tripartite Partnership, but ensuring that there will always be staggered application, that is, some memberships from each Partner will overlap to ensure continuity, coherence and smooth transitions with rotations, and, for the work of the 'Board'/'Steering Committee'.

#### 10.6. Terms of Reference

- 10.6.1. Under this scenario, Clauses 17 and 18 could be deleted, and, their administrative elements, as appropriate, could be incorporated into the Terms of Reference for the suggested Tripartite Partnership 'Board' or 'Steering Committee'.

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<sup>20</sup> c) 13. Monitoring and Evaluation, Caribbean Policy Development Centre (CPDC), Code of Conduct and Ethics