



Code of Conduct for Churches in Kenya

Draft 2

THE PROPOSED CODE OF CONDUCT FOR CHURCHES IN KENYA

BACKGROUND

The religious sector in Kenya is already regulated under various laws including the Societies Act (Cap 108), the Marriage Act 2014, the Trustees (Perpetual Succession) Act, and the Companies Act. Chapter six of the 2010 constitution provides for leadership and integrity that is required of all leaders including church leaderships. Additionally, criminal behavior for any individual or society is covered by sanctions under the Penal Code. However, all these are supplementary to the Holy Bible which provides a final code of conduct for all believers, leaders included. Christians are invited by scripture to honour the just laws of the land.

Regardless, the Government of Kenya has from time to time indicated that it will put into place further regulation, for example the Religious Societies Regulations 2015. The reasons the Government has given for this need range from security concerns due to radicalization and terrorism, to economic exploitation of followers. There have also been claims of money laundering through religious societies, and leadership wrangles in churches with some matters going to court.

In responding to the Attorney General in January 2016, the National Council of Churches in Kenya (NCCCK) reminded the Government that freedom of worship is a constitutional right and that enough regulation was already in place.

The NCKK made a number of proposals at the time and these included the following:

- a. Creating a legal framework for religious societies separate from the Societies Act and other societies in which every religious institution has internal self-regulatory mechanisms.
- b. Establish within the law a registrar of religious societies and define the functions through sectoral consensus.
- c. Transfer other religious functions like marriages to the said registrar of religious societies.
- d. Consider establishment of a religious societies' commission, a body fully formed by the religious societies to support the sector, promote religious freedom and manage inter-religious issues
- e. Establish a viable and funded shared regulatory function between the commission and umbrella institutions.

On its part, and in line with NCKK proposals, the Evangelical Alliance of Kenya (AEK) drafted a Religious Freedom Bill in 2016 seeking the establishment of Kenya Religious Freedom Commission, whose function would include the promotion of religious freedom in the Republic of Kenya. The Commission would include representatives from the Muslim Council, Hindu Council, the Church Councils (comprising EAK, NCKK, KCCB, and any other duly registered Christian umbrella body).

Attempts by the government to control churches continues to date. In August 2018, the Attorney General published a Draft of Association Bill 2018 which was intended to replace the Societies Act (Cap 108). The objects of the Association Bill were to include a framework for the registration, incorporation, and regulation

of associations; promote corporate governance of associations registered under the Act; and provide mechanism for the resolution of disputes relating to the associations. The bill proposed the appointment of a Registrar of Associations to implement policies and keep and maintain a register of the associations under this law.

More recently, a number of legislators have filed motions and sponsored bills in parliament to tighten regulation of churches. This situation continues to be worrisome for the faith community and especially the church. A solution needs to be provided through a mutually negotiated and agreed mechanism for internal self-governance of churches.

Recognising all these efforts by the Attorney General, legislators, and Christian umbrella bodies to ensure that there is internal health in corporate governance and leadership of churches; and the need that there exists a self-regulatory mechanism that would require all churches and Christian organisations to adhere to in mutual agreement with government, Hesabika Trust undertook to draft and provide a Code of Conduct as herein provided. This Code of Conduct is a product of consultation with Christian leaders from all Christian persuasions and no conscious effort has been left out to ensure that ALL suggestions that may provide a solution to the current problem of leadership and conduct of Christian institutions and leaders is included.

Hesabika Trust hopes and prays that this effort will offer guidance and comfort to churches in Kenya as regards to regulation and the Code of Conduct.

Hesabika Trust

3 March 2021

A. PREAMBLE

We subscribe to the supremacy of God and the Holy Bible as our final authority.

1. WHEREAS we affirm the fundamental right to freedom of conscience, religion, thought, belief and opinion protected by Article 32(1) and related provisions of the Constitution (2010); and
2. WHEREAS we accept and appreciate the truth that the right to freedom of religion and belief carries corresponding duties and responsibilities; and
3. WHEREAS the right to freedom of religion and belief is an important mechanism for the equitable regulation of the relationship between religions and the state, providing that religious institutions enjoy recognition, protection and cooperation in a constitutional state as institutions with their own sphere of responsibility; and
4. WHEREAS the State has the duty to govern justly and impartially in the interest of everybody, to respect, protect and accommodate diverse belief systems, and not to deny diversity by adopting any religion, uniform standard to the exclusion of differing beliefs or convictions, but instead pursue the full enjoyment of freedom of religion and belief by all; and
5. WHEREAS we, while true to our beliefs and convictions, undertake to act in the best interest of the society of which we are privileged to be a part, as well as the best interest of our members and participants; and

6. WHEREAS we acknowledge some unacceptable conduct occurring in the religious community, and condemn any irresponsible, harmful or illegal activities taking place in the name of religion; and
7. WHEREAS we believe that the church community should act decisively among ourselves to address such conduct, and develop clear standards to guide our actions and prevent abuse and exploitation in religion and contribute to human dignity and a spirit of mutual respect among the people of Kenya;

NOW, THEREFORE, while acknowledging the existence of other codes of conduct and governance principles that may already apply in particular churches and organizations, we subscribe to the following code of conduct to give collective expression to our faith, rights, responsibilities and role within society.

B. CODE OF CONDUCT

Integrity and ethical conduct are central to biblical teaching and practice. The Lord Jesus Christ called the church to be the salt and light in the society, and therefore should operate within a standard higher than to any other authority. Consequently, what follows is the basic minimum standard we commit ourselves to as churches in Kenya.

1. We pledge to promote and enhance the well-being of our members and of society as a whole in accordance with our beliefs and convictions, and to refrain from any conduct that undermines the constructive role that churches should play in society.

2. As religion is meant to assist and enhance, and not obstruct human life, we respect, protect and preserve life, and shall do nothing to devalue, dehumanize or destroy life.
3. We shall respect and uphold the dignity of every person and shall not abuse or exploit people, or do anything to violate or degrade any person.
4. We value children, and pledge to act in their best interest when under our care, protect them from maltreatment, neglect, abuse, or exploitation, and promote their physical, spiritual, moral and social well-being and development.
5. We uphold the sanctity of life. According to Article 26(1) of the Constitution, “Every person has the right to life.” Further to that, Article 26(2) adds that “The life of a person begins at conception.”
6. We respect the right of every person to join any faith or religion of their choice without bullying, harassment, intimidation, or victimization.

C. RULE OF LAW

The church will endeavour to operate within the rule of law in all its activities and we shall inform and educate ourselves and our members and participants in respect to our role as good citizens.

1. We shall not perform acts or condone behavior that is ungodly or may cause harm or damage to other people and property.
2. We shall obey the law of the land to the extent that it does not contradict the express teachings of the Holy Bible.

3. In the exercise of our rights to regulate our own affairs, we shall act ethically and within the law.
4. We shall adhere to the principle of confidentiality in all our pastoral responsibilities.

D. LEADERSHIP AND GOVERNANCE OF CHURCHES

We shall put in place appropriate leadership, management and control mechanisms and processes to ensure our internal operations are carried out and resources used in a responsible manner.

1. We shall put in place leadership and governance structures in our churches to ensure accountability.
2. We shall ensure that each church or denomination has an internal governance body that can hold the leaders accountable.
3. In the employment of church staff, we shall ensure fairness and transparency.
4. We shall be committed to the biblical model of servant leadership in our style and in serving our congregations.
5. All church leaders shall disclose any conflict of interest which may arise in the course of their service.
6. We will safeguard our pulpits from divisive politics.
7. We shall put in place an annual forum for reporting the affairs of the church to the members.

E. STEWARDSHIP OF FINANCES AND ASSETS

We shall act with honesty, integrity, due diligence and transparency in respect to financial stewardship.

1. We shall refrain from unethical conduct when soliciting contributions or raising funds from members, external donors or other sources.
2. We shall honor and use gifts and contributions for the purpose for which they were received, and shall provide periodical or annual reports to our church members.
3. We shall keep accurate financial statements in accordance with accepted financial practices and shall subject our accounts to an audit as required by each church's registration.
4. We will be committed to be accountable and report to our members in the manner prescribed in our respective constitutions.
5. All assets belonging to the institutions shall be registered in the name of that institution and its trustees, except where the asset is meant as a gift to an individual leader.

F. DISPUTE RESOLUTION AND PREVENTION:

We shall be committed to be peacemakers between individuals and churches.

1. We shall seek the support of government to establish a Christian dispute resolution body to handle conflicts between churches and their leaders, and offer these services to the community, society and national leadership.

2. In order to avoid the destruction of relationships and to preserve the unity of the gospel, we shall seek the unity of the body of Christ, and be a source of peace-making for the society.
3. We shall encourage alternative dispute resolution, which may include negotiation, mediation, arbitration and avoid litigation as far as is possible.
4. We shall establish dispute resolution bodies to handle internal disputes and conflicts among colleagues, family, congregants and members of the wider community.

KANUNI YA MAADILI YALIYOPENDEKEZWA KWA MAKANISA NCHINI KENYA

HISTORIA

Idara ya dini nchini Kenya tayari inathibitiwa na sheria kadhaa ikiwemo Sheria ya Jamii (Sehemu ya 108), Sheria ya Ndoa ya mwaka 2014, Sheria ya Udhamini (Urithi daima) na Sheria ya Kampuni. Sura ya sita ya katiba ya mwaka 2010 inaorodhesha mambo yanayohitajika ya uadilifu wa viongozi wote pamoja na uongozi wa makanisa. Cha ziada, tabia yoyote mbovu kwa mtu yeyote ama jamii iko na vikwazo chini ya Mwongozo wa Adhabu. Hata hivyo, hivi vyote sio vya kimsingi kwani Biblia Takatifu ndiyo ya msingi na hupeana mwongozo kamili wa adhabu ya waumini wote, viongozi pia wakiwemo ndani. Wakristo wanaalikwa kupitia kwa Maandiko Matakatifu kuheshimu sheria halali za nchi.

Hata hivyo, Serikali ya Kenya imekuwa ikisema kwa muda ya kuwa itaweka sheria zaidi za kudhibiti, kwa mfano Sheria ya Vikundi vya Kidini ya mwaka wa 2015. Sababu ambazo serikali imetoa kwa ajili ya hili hitaji zinajumuisha mambo kutoka wasiwasi wa kiusalama unaotokana na sera kali na ushambulizi wa kiugaidi, hadi kudhulumuwa kiuchumu kwa wafuasi. Pia kumekuwa na madai kuhusu ulanguzi wa fedha kupitia mashirika ya kidini na vita vya uongozi kanisani na baadhi ya hayo mambo hata kupelekwa kortini.

Muungano wa Makanisa nchini Kenya (NCK) wakiwa wanamjibu Mwana Sheria Mkuu wa Serikali mwezi wa Januari mwaka wa 2016 ulikumbusha Serikali kuwa uhuru wa kuabudu ni haki ya kikatiba na ya kuwa sheria za kutosha tayari zilikuwepo. NCK ilipendekeza mambo kadhaa wakati huo na yalijumuisha yafuatayo:

- a. Kuwa na ratiba ya kisheria kwa ajili ya mashirika ya kidini iliyo tofauti na Sheria ya Mashirika na mashirika mengine ambavyo kila shirika la kidini liko na njia za kindani za kujidhibiti.
- b. Kuweka ndani ya sheria msajili wa mashirika ya kidini na kueleza majukumu kupitia kwa makubaliano ya sehemu tofauti tofauti.
- c. Kupeana majukumu kama vile ya ndoa kwa msajili mhusika wa mashirika ya kidini.
- d. Fikiria kuhusu kubuni jopo kazi la mashirika ya kidini, jopo ambalo litakuwa limeundwa na mashirika ya kidini kusaidia sekta ya kidini, kukuza uhuru wa kuabudu na kushughulikia mambo yanayotokea kati ya dini moja na nyingine.
- e. Kuweka majukumu yanayowezekana na yaliyofadhiliwa kati ya hilo jopo kazi na mashirika yaliyo chini yake.

Kwa upande wao na wakiwa wanakubaliana na mapendekezo ya NCCCK, kundi la “Evangelical Alliance of Kenya” (EAK) nao waliandika jaribio la mswada wa Uhuru wa Kidini wa mwaka 2016 unaopendekeza kubuniwa kwa jopo kazi la Uhuru wa Kuabudu Nchini Kenya ambalo jukumu lake litajumuisha kukuza uhuru wa kidini katika Jamhuri ya Kenya. Jopo hilo litajumuisha wawakilishi kutoka katika Baraza la Waislamu, Baraza la Wahindu, Mabaraza ya Makanisa (yakijumuisha EAK, NCCCK, KCCB na shirika lingine lolote ambalo limesajiliwa ambalo ni la Kikristo)

Majaribu ya serikali kuthibiti makanisa yanaendelea hadi leo. Mnamo Agosti mwaka wa 2018, Mwana Sheria Mkuu wa Serikali alichapisha rasimu ya Sheria ya Bunge ya Ushirika ya mwaka wa 2018 ambayo ilifaa kuchukua mahali pa Sheria ya Ushirika (Sehemu ya 108). Baadhi ya mambo ya huu mswada wa Ushirika ilifaa kujumuisha mwongozo wa kusajili, kushirikisha na kudhibiti mashirika; kukuza

utawala wa kipamoja wa mashirika yaliyosajiliwa kupitia huu mswada na kupeana mwongozo wa kusuluhisha ubishi unaohusiana na mashirika hayo. Mswada huu ulipendekeza kuteuliwa kwa Msajili wa Mashirikia kutimiliza sera na kuwa na orodha ya mashirika yaliyo chini ya hii sheria.

Hivi karibuni, baadhi ya wabunge wameandikisha hoja na kufadhili miswada bungeni wakiwa na nia ya kukaza kamba kuhusu kudhibiti makanisa. Hali hii inaendelea kuwa ya kushitua kwa jamii ya imani na hasa kwa kanisa. Suluhisho linahitajika kutolewa kupitia kwa mazungumzo na kuafikiana kwa njia za utawala wa makanisa kujidhibiti.

Kutambua juhudi hizi zote za Mwana Sheria Mkuu wa Serikali, wabunge na mashirika ya makanisa kuhakikisha ya kuwa utawala wa pamoja na uongozi wa makanisa unaendeshwa vizuri; na haja ya kuwa kuwe na njia za kujidhibiti wenyewe ambazo zitahitaji makanisa yote na mashirika yote ya dini ya Kikristo yatafuata katika kukubaliana na maafikiano na serikali, “Hesabika Trust” ilichukua jukumu la kurasimu na kupeana Kanuni ya Maadili jinsi ilivyo hapa. Hii Kanuni ya adili ni matokeo ya mazungumzo na viongozi wa makanisa kutoka katika ushawishi wote wa Kikristo na hakuna wazo lolote ambalo limewachwa nje ili kuhakikisha ya kuwa mapendekezo YOTE yanayoweza kupeana suluhu kwa shida ya sasa ya uongozi na maadili ya mashirika ya Kikristo na viongozi yamejumuishwa.

“Hesabika Trust” inatumai na kuomba ya kuwa juhudi hii itatoa mwongozo na faraja kwa makanisa nchini Kenya kuhusu udhibiti na Kanuni ya Maadili.

Hesabika Trust

Machi 3, 2021

G. UTANGULIZI

Tunaamini kuwa ukuu wa Mungu na Biblia Takatifu ndiyo mamlaka yetu kamili.

1. HATA INGAWA tunakubali haki ya uhuru wa dhamira, dini, wazo, imani na maoni inayolindwa na Kipengele cha 32(1) na mengine yanayohusiana nayo kutokana na Katiba ya (2010); na
2. HATA INGAWA tunakubali na kushukuru ukweli ya kuwa haki ya uhuru wa dini na imani uko na kazi na majukumu yanayoambatana nao; na
3. HATA INGAWA haki ya uhuru wa dini na imani ni jambo muhimu kwa usawa wa udhibiti wa uhusiano kati ya dini na serikali, mradi mashirika ya kidini yafurahie utambulizi, ulinzi na ushirikiano katika hali ya kisheria kama mashirika mengine yakiwa na maeneo yao ya majukumu; na
4. HATA INGAWA serikali iko na jukumu la kutawala kwa njia ya haki bila ya ubaguzi kwa kila mtu, kuheshimu, kulinda na kukubaliana na imani tofauti na kutonyima utofauti kwa kukubali dini yoyote, usawa katika imani au ushawishi tofauti, lakini badala yake ihakikishe watu wote wanapata kwa ukamilifu uhuru wa kidini na imani; na
5. HATA INGAWA sisi tunafuata kwa usahihi imani na ushawishi wetu, tunaamua kufanya inavyokubalika kwa ajili ya wema wa jamii ambayo tuko na kibali ya kuwa sehemu yake, na pia kwa wema wa washirika wetu na wahusika; na
6. HATA INGAWA tunatambua baadhi ya tabia isiyokubalika kufanyika katika jamii ya kidini, na kuhukumu jambo lolote lisilofaa, linalodhuru ama lisilostahili likifanyika katika jina la dini; na

7. HATA INGAWA tunaamini ya kuwa jamii ya kanisa inafaa ifanye uamuzi kwa njia inayostahili katikati yetu kushughulikia tabia kama hii na kuibua njia mwafaka za kuongoza matendo yetu na kuzuia dhuluma na kutumiwa vibaya katika dini na kuchangia kwa hadhi ya mwanadamu na roho ya heshima kwa watu wote wa Kenya;

BASI SASA, tukiwa tunatambua kuwepo kwa kanuni nyinginezo za maadili na kanuni za uongozi zinazoweza kutumiwa katika baadhi ya makanisa na kwenye mashirika, tunajitolea kwa kanuni ya maadili ifuatayo kupeana dhihirisho la umoja kwa imani yetu, haki zetu, majukumu na kazi katika jamii.

H. KANUNI YA MAADILI

Ukweli na tabia inayostahili ni jambo kuu katika mafunzo na desturi ya kiBiblia. Bwana Yesu Kristo aliita kanisa ili liwe chumvi na mwanga wa jamii na kwa hivyo linahitajika lifanye kazi katika kiwango cha juu kuliko mamlaka yeyote. Hatimaye kinachofuata ni mambo ya kimsingi ambayo tunajitolea kama makanisa nchini Kenya.

1. Tunaapa kukuza na kuendeleza wema wa washirika wetu na jamii kwa ujumla kulingana na imani na ushawishi wetu na kujizuia na tabia yeyote inayodhoofisha jukumu linalofaa ambalo kanisa linahitajika kufanya katika jamii.
2. Jinsi dini inavyohitajika kusaidia na kukuza, na wala sio kuzuia uhai wa mwanadamu, tunaheshimu, tunalinda na kuhifadhi uhai na hatutafanya lolote kushusha ama kudunisha utu ama kuharibu uhai.
3. Tutaheshimu na kushikilia heshima ya kila mtu na hatutatusi wala kuwatumia watu vibaya ama kufanya jambo lolote kuharibu ama kushusha mtu yeyote.

4. Tunathamini watoto na tunaapa kuwashughulikia vizuri tuwezavyo wakati ambapo wako chini ya ulinzi wetu, kuwalinda kutokana na kutendewa mabaya, kutoshughulikiwa, kudhulumiwa ama kutumiwa vibaya na kukuza hali yao ya kimwili, kiroho, kitabia na kijamii.
5. Tunashikilia thamani ya uhai. Kulingana na kipengele cha 26(1) cha katiba, “Kila mtu yuko na haki ya uhai.” Zaidi ya haya, kipengele cha 26(2) kinaongeza ya kuwa “Uhai wa mtu unaanza wakati ambapo mimba inatungwa.”
6. Tunaheshimu haki ya kila mtu kujiunga na Imani yoyote ama dini ambayo ameamua bila ya kuteswa, kusumbuliwa, kulazimishwa ama kunyanyaswa.

I. UTAWALA WA SHERIA

Kanisa litajaribu liwezavyo kufanya kazi ndani ya utawala wa sheria katika shuguli zake zote na tutafahamisha na kujifunza sisi wenyewe na washirika wetu na wahusika kulingana na jukumu letu kama wananchi wazuri.

1. Hatutafanya matendo ama kukubaliana na tabia ambayo sio ya kiungu ama ambayo inaweza kuleta madhara ama uharibifu kwa watu wengine na mali.
2. Tutatii sheria ya nchi kwa kiwango ambacho hakiendi kinyume na mafundisho ya Biblia Takatifu.
3. Katika hali yetu ya kutekeleza haki zetu kuthibiti mambo yetu wenyewe, tutazifanya kwa njia inayokubalika na ndani ya sheria.
4. Tutazingatia kanuni ya usiri katika majukumu yetu yote ya uchungaji.

J. UONGOZI NA UTAWALA WA MAKANISA

Tutaweka uongozi unaohitajika, usimamizi na mifumo ya kudhibiti michakato kuhakikisha ya kuwa shughuli zetu za kindani zinafanywa na rasilmali zinatumiwa kwa njia inayostahili.

1. Tutahakikisha ya kuwa kuna mbinu za kuwajibika katika uongozi na utawala makanisani mwetu.
2. Tutahakikisha ya kuwa kila kanisa ama dhehebu liko na baraza la utawala litakalo hakikisha kuwa viongozi wanawajibika.
3. Katika ajira ya wafanya kazi wa kanisa, tutahakikisha kuwa kuna haki na uwazi.
4. Tutajitolea kudumu katika mtindo wa kiBiblia wa kiongozi mtumishi katika mtindo wetu na katika kuwatumikia washirika wetu.
5. Viongozi wote wa makanisa wataweka wazi mgongano wa maslahi yote ambao waweza kujitokeza wakiwa wanahudumu.
6. Tatalinda mimbari zetu ili kusiwe na siasa za mgawanyiko.
7. Tutahakikisha ya kuwa kuna mkutano wa kila mwaka wa kuripoti mambo ya kanisa kwa washirika.

K. UTUNZAJI WA FEDHA NA MALI

Tutafanya kazi kwa ukweli, uadilifu, ipasavyo na kwa uwazi katika utunzaji wa fedha.

1. Tutaepuka kuwa na tabia isiyostahili tunapoomba mchango ama kuchangisha pesa kutoka kwa washirika, wafadhili wa nje ama vyanzo vingine.
2. Tutaheshimu na kutumia zawadi na mchango kwa lengo lililokusudiwa na kupeana ripoti kila wakati na ripoti za mwaka kwa washirika wa makanisa yetu.
3. Tutaweka taarifa sahihi ya kifedha kulingana na desturi zinazokubalika za kifedha na kuhakikisha kuwa hesabu zetu zinafanyiwa ukaguzi inavyohitajika na usajili wa kila kanisa.
4. Tutajitolea kuwajibika na kuripoti kwa washirika wetu katika njia inayohitajika jinsi ilivyo katika katiba zetu.
5. Mali yote inayomilikiwa na shirika itasajiliwa katika jina la hilo shirika na wadhamini wake, isipokuwa wakati ambapo zawadi imetolewa kwa kiongozi fulani.

L. UTATUZI NA KINGA YA MIGOGORO

Tutajitolea kuwa waleta amani baina ya watu binafsi na makanisa.

1. Tutaomba usaidizi wa serikali kubuni baraza la Kikristo la kutatua migogoro ambalo litashughulikia migogoro kati ya makanisa na viongozi wao na kupeana hizi huduma kwa uongozi wa kijamii na kitaifa.

2. Ili kuzuia uharibifu wa uhusiano na kuhifadhi umoja wa habari njema ya injili, tutatafuta umoja wa mwili wa Kristo na kuwa chanzo cha kuleta amani kwa ajili ya jamii.
3. Tutahimiza njia mbadala za kusuluhisha migogoro ambazo zinaweza kujumuisha maafikiano, kuelewana, usuluhishaji na kuepuka kuleta ubishi iwezekanavyo.
4. Tutaanzisha baraza la kushughulikia migogoro na ubishi wa ndani kati ya wafanya kazi, familia, mkusanyiko wa washirika na wanajamii kwa ujumla.

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