

**CODE OF CONDUCT
FOR HUMANITARIAN WORKERS IN THE
KENYA REFUGEE PROGRAM**

Nairobi, Kenya

November 2003

The spirit of this Code of Conduct is to complement, reinforce and enhance similar Codes already in force in the organizations party to the Code or any other instruments that have the same purpose. The Code is not intended to replace or in any way detract from them.

I. INTRODUCTION

(a) Background

1.1. Conflict and displacement inevitably erode and weaken the social and political structures for the protection of communities and their members. The resources available to affected populations and humanitarian agencies assisting them are frequently insufficient to meet basic needs. All too often, mechanisms for protection are not fully effective or given sufficient priority. Against this background, affected populations find themselves in situations where they can be exploited or abused. Such environments can also provide opportunities for abuse of power and corruption by, among others, humanitarian workers.

(b) Code of Conduct

1.2. The humanitarian agencies working with refugees and in refugee programmes in Kenya are determined to prevent and combat such practices. Among the steps towards this objective, they have together developed the present Code of Conduct.

1.3. The Code is intended to serve as an illustrative guide for staff in sustaining ethical behaviour in their professional and, even, private lives. While not necessarily carrying the force of law by itself, the Code is a document of moral power. It is designed to assist humanitarian agencies and their staff to better understand the ethical obligations placed upon their conduct and to act accordingly. The agencies party to the Code are determined to fully give effect to its provisions and the undertakings they have made by signing it. They will not tolerate abuse, exploitation and corruption within their operations. They shall pursue vigorously any breaches of the Code according to their respective administrative rules, regulations and sanctions.

1.4. In this connection, it is reiterated that the Code of Conduct has been developed in the spirit of complementing and strengthening similar Codes or other instruments within each agency, rather than to replace or detract from them.

(c) The Environment

1.5. Sexual exploitation, abuse of power and corruption occur in many different situations. However, in humanitarian crises, the dependency of affected populations on humanitarian agencies for their basic needs creates a particular ethical responsibility and duty of care on the part of humanitarian workers. Managers have a special responsibility to ensure that there are proper mechanisms to prevent and respond to sexual exploitation, abuse of power and corruption, and that there is no tolerance for such practices. This is especially necessary in view of the fact that:

1.5.1. The lack of economic opportunities for displaced populations may oblige them to resort to commercial and exploitative sex as a way of generating income to meet basic needs.

1.5.2. Beneficiary communities have often come from an environment of gender-based violence in which distorted community structures and practices may compound the problem.

1.5.3. In refugee camps or settlements, the usual social protections are not in place or are no longer functioning. Levels of protection and security are generally poor, and justice and policing often do not exist. Without the proper safeguards being put in place, these patterns can continue and become exacerbated.

(d) Humanitarian Workers

1.6. Not only the internationally engaged workers of humanitarian organizations have the obligation to demonstrate ethically upright behaviour. Large numbers of personnel are engaged in refugee programmes in a variety of capacities ranging from volunteers, casual laborers, drivers and warehouse guards to decision-makers at the country, regional and international levels. Many of these workers are drawn from the beneficiary communities themselves. This may sometimes blur the distinction between what constitutes professional and private relationships with other members of the beneficiary community. However, as far as this Code is concerned, by accepting employment in these situations, all such workers accordingly also assume the special duty of humanitarian care and ethical conduct that goes with their responsibilities.

1.7. In adopting this Code of Conduct, the signatory agencies thereby signal their responsibility to uphold its standards of behaviour. The respective senior managers acknowledge that they have a special duty to personally set good examples and maintain a working environment in which their workers can sustain ethical behaviour in the discharge of their responsibilities.

II. INTERPRETATION

2.1. For purposes of this Code of Conduct:

“ACCOUNTABILITY” refers to the moral and legal responsibility of a humanitarian worker for his or her duties and actions in a proper and responsible manner. It also includes institutional measures and systems established to maintain appropriate standards of behaviour and effective performance of duties by workers.

“AFFECTED POPULATIONS” are the individuals or groups for whom the humanitarian activities of the respective agencies party to this Code of Conduct are intended.

“BENEFICIARY” means a person to whom the humanitarian agencies or their workers are required to provide one or another form of protection, assistance, service or other intervention.

“DISCRIMINATION” means exclusion, treatment, or action against an individual based on social status, race, ethnicity, colour, religion, gender, sexual orientation, age, marital status, nationality, political affiliation or disability.

“GENDER” refers to the cultural or societal differences between males and females in terms of roles and responsibilities, expectations, power, privileges, rights, and opportunities. It also refers to the differences between males and females that are rooted in culture, tradition, society or religion and is learned from infancy. The gender perspectives of an individual or society can change. It is highlighted that due to their unequal status, women and girls are particularly at risk of sexual exploitation and abuse. Of course, under particular circumstances, young and even adult males can also be vulnerable to sexual exploitation and abuse.

“HARASSMENT” means any comment or behaviour that is unwelcome, offensive, demeaning, humiliating, derogatory, or is otherwise inappropriate or fails to respect the dignity of an individual. It can be committed by or against any beneficiary, partner, employee, official, or any other person involved in any way in the refugee programme.

“HUMAN RIGHTS” are the agreed international standards that recognize and protect the dignity and integrity of every individual without any distinction.

“HUMANITARIAN STANDARDS OF BEHAVIOUR” are the professional and moral attributes established in this Code of Conduct and which must be demonstrated by humanitarian workers in fulfilling their assigned tasks, without exploiting or abusing the beneficiaries or those under their supervision.

“HUMANITARIAN WORKER” includes all workers engaged by humanitarian agencies, whether internationally or nationally recruited, or formally or informally retained from the beneficiary community, to conduct the activities assigned by the employing agency. In addition, any worker that is directly or indirectly involved with refugee communities is considered to fall under this definition, including police and security personnel, community leaders, local authority representatives, immigration officials, lawmakers, legislators, political leaders and officers.

“MINOR” refers to a person under the age of 18 years and corresponds to the definition of a child according to the Convention on the Rights of the Child (CRC).

“POWER” refers to authority or the decisive ability to materially affect various forms of rights, entitlements or relationships. Power arises most crucially from, among others, position, rank, influence, status or control of resources. Unequal power relationships provide among the most critical settings for sexual exploitation and abuse in a refugee environment. Once again, it is reiterated that due to their unequal status, women and girls are particularly at risk of sexual exploitation and abuse, although boys and even adult males can likewise be vulnerable.

“PROTECTION” includes those measures that are necessary or actually taken to ensure that individual basic human rights, welfare and physical security and integrity are recognised and safeguarded in accordance with international standards.

“REFUGEE” means a person entitled to be provided protection, assistance or other services by the agencies party to this Code according to international refugee law or their respective agency mandates. As used in this Code, the term also includes asylum-seekers.

“SEXUAL ABUSE” is actual or threatened physical intrusion of a sexual nature, by force or under unequal or coercive conditions, and includes inappropriate touching.

“SEXUAL EXPLOITATION” carries the same meaning in this Code as sexual coercion or manipulation. It includes all situations where a person in a position of power, authority or in control of resources seeks or accepts to provide protection, assistance or service in exchange for sexual acts or favours. Sexual exploitation also includes taking advantage of a position of vulnerability, differential power, or trust for sexual purposes. Irrespective of authority, position, influence or trust, sexual exploitation can also occur through pressure, force or manipulation. Survivors who may appear to have consented to these acts have still been exploited if they were led to believe that they had no other choice than to comply. Examples of sexual exploitation, coercion or manipulation of concern to this Code include, but are not limited to, cases where:

- Monetary, social or political gains are derived from the sexual exploitation of survivors.
- A humanitarian worker demands or accepts sex in exchange for protection, material assistance, favours, or other services or privileges.
- A teacher solicits or accepts sex in exchange for a passing grade or admission to class.
- A refugee leader demands or accepts sex in exchange for favours or privileges.
- A security worker insists on or accepts sex in exchange for safe passage or other measure of security.
- A driver demands sex in order to give a ride.

“SEXUAL AND GENDER BASED VIOLENCE” or “SGBV” includes actual or threatened physical, sexual and psychological violence occurring in the family or community. SGBV may take the form of battering, sexual abuse, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, spousal or non-spousal violence, violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.

“SEXUAL HARASSMENT” means any unwelcome sexual advance, comment, expressed or implied sexual demand, touch, joke, gesture, or any other communication or conduct of a sexual nature, whether verbal, written or visual, by any person to another individual. Sexual harassment may be directed at members of the same or opposite sex and includes harassment based on sexual orientation. It can occur between any individuals, employee or beneficiary, regardless of their work relationship.

“SURVIVOR” is used to refer to those who have suffered the abuse, exploitation, corruption or abuse of power as outlined in this Code of Conduct and may include their family members, dependents, relatives or close associates.

III. UNDERTAKINGS

3.1. Humanitarian workers in the Kenya Refugee Programme shall:

3.1.1. Respect and promote the fundamental human rights of all, without discrimination of any kind and irrespective of social status, race, ethnicity, colour, religion, gender, sexual orientation, age, marital status, national origin, political affiliation or disability.

3.1.2. Treat all beneficiaries and other persons fairly and with respect, courtesy and dignity according to the laws of Kenya, international refugee law and the appropriate local customs.

3.1.3. Never commit any act or form of harassment that could result in physical, sexual or psychological harm or suffering to individuals, especially women and children.

3.1.4. Never exploit the vulnerability of beneficiaries, especially women and children, or allow them to be put into compromising situations.

3.1.5. Never engage in any sexual activity with children, that is, persons under the age of 18, regardless of what the age of majority or consent locally may otherwise be. It shall not be a defense that one was mistaken as to the age of the child concerned.

3.1.6. Never engage in sexual exploitation or abuse of beneficiaries under any circumstances.

3.1.7. Never condone or participate in any corrupt or illegal activities.

3.1.8. Never accept or exchange money, employment, goods, or any other services for sex, including sexual favors for services which must otherwise be provided to the beneficiaries by duty and free of charge.

3.1.9. Never engage in any other forms of humiliating, degrading or exploitative behavior under any circumstances whatsoever.

3.1.10. Never abuse their authority, position or influence by withholding protection, humanitarian assistance and services, nor give preferential treatment in order to solicit sexual favors, gifts, payments of any kind, or any other advantage.

3.1.11. Ensure that all confidential information, including reports of breaches of these standards by other workers or obtained from beneficiaries, is channeled correctly and handled with utmost confidentiality.

3.1.12. Ensure that any breaches of the standards set out in this Code are immediately reported to senior management or the human resources manager in the agency concerned, or through any other established reporting mechanism.

3.1.13. Uphold the highest standards of accountability, efficiency, competence, integrity and transparency in the provision of protection, goods and services in the execution of their responsibilities.

3.1.14. Create and maintain an environment that prevents sexual exploitation and abuse, corruption or abuse of power and promotes the implementation of this Code or any other similar instruments within the respective agencies. Managers at all levels have particular responsibilities to support and develop systems that maintain and enhance this environment.

3.1.15. Not purposely make false accusations against another worker of breaching the provisions of the Code of Conduct.

IV. SEXUAL RELATIONS WITH BENEFICIARIES

4.1. Humanitarian workers occupy positions of authority, power and control of resources and services. It is thus crucial that there should be concern over sexual relationships between them and beneficiaries, including even those which may be said to be proper and consensual. There should be no room at all for even the perception that abusive and exploitative relations could be taking place. Therefore, the agencies party to this Code in principle unanimously favoured the position that sexual relationships between humanitarian workers and beneficiaries should be absolutely prohibited under any circumstances.

4.2. However, it proved difficult for several reasons to adopt this position. Crucially, thousands of workers who are themselves refugees are covered by the Code. Many of them have relationships, including marriages with fellow refugees, which are proper and beyond reproach. The prohibition absolutely of sexual relations between beneficiaries and humanitarian workers who are refugees would deny them the opportunity of establishing normal and proper relationships within a natural environment for them.

4.3. Therefore, the following standards shall apply on this issue:

4.3.1. Sexual relationships with beneficiaries which are consensual and proper shall not be considered to be improper or prohibited on the ground only that one or both of the persons concerned is a humanitarian worker as defined in this Code.

4.3.2. It is however reiterated that each and every standard in the Code of Conduct guarding against abusive or exploitative sexual relationships with beneficiaries will otherwise apply with equal force to such relationships.

4.3.3. Sexual relations between beneficiaries and other categories of humanitarian workers, particularly international staff, are, as a minimum, strongly discouraged. They are strongly exhorted to conduct themselves as if such relationships are prohibited.

4.3.4. Any humanitarian worker who finds himself or herself involved in a relationship with a beneficiary, even if confident that it is consensual and proper, shall advise his or her head of agency or supervisor of the relationship.

4.3.5. The heads of all the agencies party to this Code shall ensure that for all relationships covered in this part of the Code that come to their attention, appropriate measures are taken to guarantee propriety and the relevant standards of the Code are not transgressed.

V. CODE OF CONDUCT A LIVING DOCUMENT

5.1. This Code of conduct is intended as a “living document”. With a special focus on stemming all new or evolving situations of sexual abuse, exploitation, abuse of power and corruption, it shall be revised from time to time by agreement among the signatory agencies so as to make it more responsive to current realities.

5.2. Upon coming into force, the Code shall be binding upon the agencies which will have actually signed it. At the same time, it shall remain open for signature by any other agencies working directly or indirectly in the Kenya Refugee Programme which shall be ready and determined to adhere to its standards and stipulations.

VI. IMPLEMENTATION AND ADHERENCE

6.1. This Code of Conduct is signed for and on behalf of their respective agencies by the Heads of Agency appearing below. By so signing the Code, they hereby undertake:

6.1.1. That they have read, understood and are in full agreement with the contents of the Code.

6.1.2. To disseminate the content and standards of the Code comprehensively within their respective agencies, and take all necessary steps to ensure implementation and adherence to the Code therein and by all their respective workers.

6.1.3 To create and develop an environment that prevents sexual exploitation and abuse, abuse of power and corruption and promote adherence to the Code and any other similar instruments applicable within their respective agencies.

6.1.4. To prevail upon their respective staff, according to formats that they will develop accordingly, to personally sign the Code, thereby signifying their personal commitment to adhere to its provisions.

6.1.5. To disseminate the Code publicly and in the local languages understood by the respective target audiences, above all the beneficiaries.

6.1.6. To monitor the implementation of and adherence to the provisions of the Code within their respective agencies, and particularly by their workers, and report accordingly to each other in the appropriate manner.

6.1.7. To ensure that in every reported breach of the provisions of the Code, the necessary investigative, administrative and disciplinary measures within their respective agencies are taken decisively and without undue delay in accordance with the respective rules, regulations and guidelines of the individual agencies.

WHEREFORE, the Heads of Agency have, on this 9th day of October 2003, in Nairobi, Kenya, appended their respective signatures to this Code of Conduct, one original copy for each signatory agency.

Name: Ursula Pandikow
Title: Chairperson
Agency: African Rehabilitation and Education Programme
(AREP Foundation)
Signature: _____

Name: Yacob Yoseph
Title: Director
Agency: African Refugee Training and Employment Services (ARTES)
Signature: _____

Name: Dennis O'Brien
Title: Country Director
Agency: CARE International in Kenya
Signature: _____

Name: Manfred van Eckert
Title: Director
Agency: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)
Signature: _____

Name: Annette Ludeking
Title: Field Director
Agency: GOAL Kenya
Signature: _____

Name: Athman Mravili
Title: Programme Director
Agency: Handicap International
Signature: _____

Name: Jason Philips
Title: Regional Director
Agency: International Rescue Committee (IRC)
Signature: _____

Name: Jane Munge
Title: Country Director
Agency: Jesuit Refugee Service (JRS)
Signature: _____