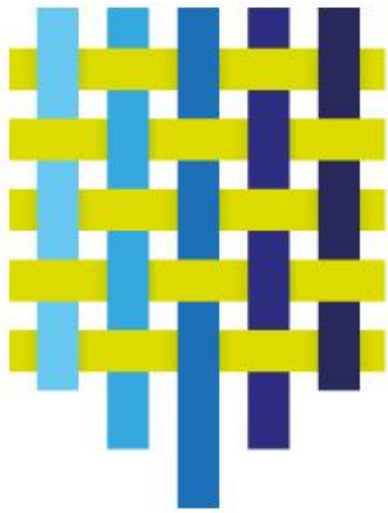
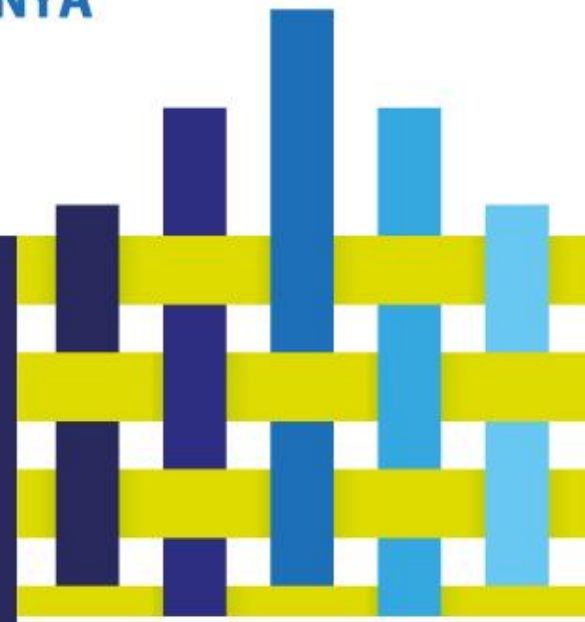


THE KENYA PUBLIC BENEFIT ORGANISATIONS (PBO) ACT 2013 PROCESS



Quest for an
**ENABLING
ENVIRONMENT** FOR
CIVIL SOCIETY ORGANIZATIONS IN KENYA



Previous Kenya Legal and Regulatory framework for CSOs

- Not-for-profit Companies- Companies limited by guarantee - Companies Act CAP 486
- Trusts - The Trustees (Perpetual Succession Act)CAP 164 and The Trustee Act CAP 167
- Non-Governmental Organisations(NGOs)- NGO Co-ordination Act, Cap 19 of 1990
- Community Based Organisations (CBOs) – not legally recognized.

Gaps in Previous Kenya Legal And Regulatory Framework for CSOs

- Multiple and overlapping, legal and regulatory regimes presents difficulties for the Government in attaining a harmonized regulatory framework;
- Difficulties in monitoring compliance and accountability by CSOs;
- Inadequate mechanisms and processes for self regulation for CSOs in Kenya;

Gaps In Previous Kenya Legal And Regulatory Framework for CSOs (Cont...)

- The previous laws for CSOs could not explicitly address leadership and integrity issues as provided for in the Constitution;
- Absence of an independent body to provide checks and balances in cases where the self-regulatory mechanism has failed;
- Absence of complaints and dispute resolution mechanism for CSOs and their members;
- Lack of a general framework of principles for collaboration between the government and CSOs.

What is PBO Act?

- The Public Benefits Organizations (PBO) Act, 2013 seeks to provide a conducive environment for the formation, operations and growth of Public Benefits Organizations (PBOs) in Kenya; to establish a regulatory and institutional framework within which Public Benefits Organizations can conduct their affairs and for such other connected purposes.
- The PBO Act, 2013 was given a presidential assent on 14th January 2013 and gazzeted on the 18th March 2013

By who?

- ❑ September 2009 -National Stakeholders Workshop to discuss the engagement of CSOs in the review process
- ❑ October 2009-Formation of the CSO Reference Group
- ❑ Mobilization of CSOs
- ❑ Process, now in its fifth year, has led to the development of the PBO Act.

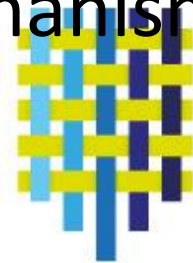


PBO Act process

- ❑ Comparative Research, education and information sharing
- ❑ Regional Consultation and Consensus meetings in 2010 and 2011
- ❑ 2009 – June 2012 (parallel processes)
 - CSO Driven Process led by the CSO Reference Group
 - NGOs Coordination Board Process
- ❑ June 2012- Joint working Group (CSO Reference Group and NGOs Coordination Board)
- ❑ Aug 2012- Stakeholders Retreat hosted by Parliamentary Committee on Labour and Social Welfare
- ❑ Sept 2012- Further amendments submitted

Key Highlights of the PBO Act

- Basis for the existence of a variety of Civil Society Organizations (CSOs)
- Voluntary Self-regulation by PBOs-PBO Federations to be a meeting point of sectoral self regulation bodies
- Establishment of an Independent Registration and Regulation Agency
- Clear benefits for PBOs
- Complaints and Redress Mechanism



Highlights of PBO Act

- Leadership and Integrity
- Basic Financial Transparency and Reporting requirements
- Clear Reporting and Compliance requirements
- Allows PBOs to engage in commercial activity
- Framework for collaboration between Government and PBOs

Value to CSOs

- Create a conducive environment for the growth and operation of the PBOs
- Re-birth of Values and Beliefs within the sector
- New Legal, regulatory and institutional framework for the conduct of PBO affairs
- Advances and demands good leadership and accountability from PBOs, in line with Chapter 6 of the Constitution.



Value to CSOs

- Good governance -ensures that PBOs maintain high standards in their internal governance and practice transparency and accountability
- Mechanisms by which the public may have access to information concerning registered PBOs.
- Promote co-operation and a sense of shared responsibility by all stakeholders in the PBOs sector

Lessons Learned

- Legitimacy through Credible leadership
- Adequate resourcing of the process- funding by CSOs
- Adequate background Research
- Advantage of opportunities
 - Freedom of Association in the new constitution
 - New parliamentary standing orders /regulations
- Advocacy and Communication strategy
- Identifying friends and champions in parliament and executive (NGO Board)
- Building alliances with relevant stakeholders

Way forward

- Supporting CSO Reference Group and technical committees meetings
- Creating awareness of the Act to the civil society organizations across the country
- Working with the government and other stakeholders to implement the law
- Strengthening regional networks to form the PBO Federation

Way forward

- Supporting setting up structures for the new law
- Launch of the PBO Act
- Development of a popular version
- Documenting the process
- Sharing success story with the East Africa community
- Engaging media in the process
- Developing a website for the process

CSO Reference Group

- **Kituo cha Sheria**
- **Akiba Uhaki Foundation**
- **Constitution & Reforms Education Consortium (CRECO)**
- **Viwango**
- **Peace & Development Network Trust (PeaceNet)**
- **Africa Youth Trust**
- **URAIA**
- **Health NGO Network-HENNET**
- **Inter-Religious Council of Kenya (IRCK)**
- **International Institute for Legislative Affairs (ILA)**
- **ACT! (formerly Pact Kenya)**
- **National CBO Council**
- **Children Legal Action Network (CLAN)**
- **East African Association of Grant Makers (EAAG)**
- **Amref Kenya,**
- **Oxfam GB**



CSO Reference Group

- **African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN)**
- **Plan International**
- **Action Aid International Kenya (AAIK)**
- **Pambazuko Foundation**
- **African Community Development Media (ACDM)**
- **International Commission of Jurists(ICJ)**
- **Kenya Human Rights Commission**
- **Representatives from the International NGOs Country Directors Group**
- **Aga Khan Foundation (AKF)**
- **Diakonia Sweden –Kenya Country Program**
- **International Institute of Rural Reconstruction (IIRR)**
- **Poverty Eradication Network (PEN)-Secretariat**



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Thank you

