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Code of Conduct

Truth, Justice, and Reconciliation Commission

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TRUTH JUSTICE AND RECONCILIATION COMMISSION
OF KENYA

Code of Conduct for Commissioners

Introduction
The Commissioners of the Truth, Justice & Reconciliation Commission of Kenya have adopted this Code of Conduct to ensure that the work of the Commission is guided by the following principles: credibility; integrity; transparency; openness; and professionalism. This Code of Conduct sets forth the rules concerning the public and private activities of the Commissioners, and the procedure for identifying and addressing actual and perceived conflicts of interest. This Code of Conduct not only incorporates and expands upon applicable provisions of the Commission’s enabling legislation, but also goes further than such legislation in order to ensure that the Commissioners perform their duties with the seriousness, integrity, and professionalism owed to the public who have so generously entrusted to the Commission its purposes, powers, and functions. Therefore each Commissioner hereby agrees to be bound by the following.

Definitions

“Chairperson” refers to the Chairperson of the Truth Justice and Reconciliation Commission of Kenya.

“Commission” refers to the Truth Justice and Reconciliation Commission of Kenya.

“Commissioner” refers to a member of the Truth Justice and Reconciliation Commission of Kenya appointed pursuant to Section 10 of the Truth, Justice and Reconciliation Act (2008).

A “conflict of interest” is an interest that might affect, or might reasonably appear likely to affect, the judgment or conduct of a Commissioner with respect to any matter before the Commission.

Professional Conduct
1. Commissioners shall avoid conduct which is in violation of the public trust or which creates a justifiable impression among the public that such trust is being violated.

2. Commissioners shall be respectful and courteous in relations with other Commissioners, staff, victims, witnesses, and other persons involved in the work of or having business before the Commission.

3. Commissioners shall conduct themselves at all times in an irreproachable manner, exercise sound judgment, observe the highest levels of personal discretion, and apply the highest standards of professionalism and integrity to their work.

4. Commissioners shall at all times comply with the rules, procedures, and policies of the Commission, including this Code of Conduct, so long as such do not conflict with an applicable law of Kenya, including the Constitution, or applicable international law.

5. Commissioners shall not engage in any discriminatory conduct in relation to any other person on grounds of race, color, ethnic or national origin, nationality, citizenship, political opinions, religious convictions, gender, sexual orientation, disability, marital status or any other personal or economic status.

6. Commissioners shall not engage in any improper conduct, including sexual harassment, coercion, intimidation, or exercise any other undue influence in his or her relations with staff, victims, witnesses, and other persons involved in the work of or having business before the Commission.

7. Commissioners shall loyally and diligently work to further the mandate of the Commission.

Independence and Impartiality

1. Commissioners shall not engage in active participation in the affairs of any political party. Nor shall Commissioners engage in active participation in the affairs of any other organization that propagates partisan views with respect to the work of the Commission.

2. Commissioners shall serve in their individual capacities independent of any political party, Government, or other organizational interests.

3. Commissioners shall at all times embrace a culture of fairness, neutrality, independence and non-partisanship in their dealings with any individual or organization appearing before or having business with the Commission.

4. Commissioners shall avoid taking any action which could create an appearance of partiality or otherwise harm the credibility or integrity of the Commission.

Authority and Responsibility
1. The Commission acts collectively pursuant to its enabling legislation, rules of procedures, and policies. Each Commissioner is accountable to the Commission as a whole for his or her actions.

2. In furtherance of the Commissioners’ collective responsibility, no Commissioner shall make any commitment on behalf of the Commission to any individual, organization, agency, or State, including any such individual or entity that provides or desires to provide funding or other support to the Commission, unless such commitment is expressly authorized by the Commission.

3. In furtherance of the Commission’s commitment to openness and transparency, each Commissioner shall disclose to the Commission any significant contact he or she has with any representative of any organization, agency, or State with an interest in the work of the Commission.

Full Time Commitment

1. The position of Commissioner is a full time commitment, and shall last throughout the life of the contractual period. A Commissioner may only receive compensation for minor work outside of his or her work for the Commission provided that a) such work does not conflict with the work of the Commission; b) such work does not diminish the ability of the Commissioner to fulfill his or her obligations to the Commission; c) such work does not create the appearance of conflict or otherwise will diminish the credibility and integrity of the Commission; d) the Commissioner requests and receives express written authorization from the Chairman (or, in the case of such a request by the Chairman, the Vice Chair) prior to engaging in such work; and e) that any such request, and any decision taken thereof, shall be disclosed to each and every Commissioner.

2. Commissioners may hold governance posts, including as members of the board of directors, in any organization provided such position does not conflict with the work of the Commission, does not involve any risk of a conflict of interest, and provided such positions so held shall be disclosed to each and every Commissioner in cultural, artistic, or charitable foundations or similar bodies. They may also hold such posts in educational institutions. “Honorary posts” means posts in which the holder has no decision-making power in the management of the body in question. “Foundations or similar bodies” means non-profit-making organizations or associations which engage in activity in the public interest in the fields mentioned. Posts held on these terms shall under no circumstances involve any risk of a conflict of interest. All such positions held shall be disclosed to the Commission.
Confidentiality

1. Commissioners shall respect and actively exercise all care to ensure the confidentiality of information provided pursuant to their work with the Commission. Commissioners may only disclose and discuss such confidential information with other Commissioners and with staff duly authorized to handle such confidential information and who are subject to a similar duty of confidentiality.

2. Out of respect for the principle of collective responsibility, Commissioners shall not make any comment which would call into question a decision taken by the Commission. They shall also refrain from disclosing what is discussed at meetings of the Commission, unless authorized to do so by the Commission.

3. Commissioners will refrain from the improper use or unauthorized release of information obtained in the course of their official duty with the Commission.

4. No Commissioner shall make private use of or profit from any confidential information gained as a result of work with the Commission.

Conflict of Interest

1. Commissioners shall exercise all due care to ensure that no conflict of interest, the reasonable perception of a conflict of interest, or any other situation which may reasonably raise a question of bias, arises with respect to their work with the Commission.

2. Commissioners shall place the independence and integrity of the Commission above all other interests, including those of any other person, organization or State, having due regard to the rules, procedures, and policies of the Commission, any applicable laws of Kenya, including the Constitution, and any applicable international law.

3. Where a conflict of interest arises, a Commissioner shall immediately inform the other members of the Commission of the conflict and either

   a. Immediately withdraw from any activities related to the matter in which there is a conflict, including but not limited to any hearings, interviews, investigations, deliberations, reports, and findings related to the matter in which there is a conflict; or

   b. Acquire the full and informed consent in writing of all potentially affected persons to continue despite the conflict, including the consent in writing of each and every other Commissioner,
4. Commissioners shall not accept in their capacity as Commissioners a gift with a value of more than 10,000 Kenyan Shillings. When a Commissioner receives gifts worth more than this amount they shall hand such gifts over to the Commission, and the disposition of such gifts will be determined by the Commission.

Disclosure of Interests and Activities

1. Commissioners must declare to the Commission any financial interest or asset which might create a conflict of interest in the performance of their duties.

2. Commissioners must declare in good faith and to the best of their ability their involvement with or connection to any significant matter that is within the mandate of the Commission.

3. If there is any doubt as to whether any involvement, connection, or interest should be disclosed, the Commissioner shall disclose such involvement, connection, or interest.

Public statements/media.

1. Commissioners shall not make public statements to the media or otherwise to the public concerning any matter which is confidential to the Commission, including its internal policies, rules, deliberations,

2. All formal media contacts by Commissioners shall be consistent with the Commission’s media policy, and shall be coordinated with the Commission’s media and communications office.

3. The Chairperson is the official spokesperson of the Commission. In that capacity the Chairperson may designate other Commissioners to speak on behalf of the Commission.

4. Commissioners shall not speak formally or informally to the media in any matter that would damage the reputation or integrity of the Commission or of individual Commissioners.

5. For six months after the final dissolution of the Commission no Commissioner may publish any written work concerning the Commission except upon the express written approval of each and every Commissioner.

Intellectual Property

1. All materials produced by each Commissioner for the Commission, and all materials produced by each Commissioner in connection with the work of the Commission, are the
exclusive property of the Commission. Such materials include, but are not limited to, any written, oral, visual, or electronic materials produced solely by a Commissioner or in combination with other Commissioners in connection with the work of the Commission.

2. Upon the dissolution of the Commission, any Commissioner may cite to materials produced by and for the Commission (except for confidential materials and only to the extent the Commission has an ownership interest in such materials) so long as the Commissioner duly credits both the Commission and the individual or individuals who produced such material for the Commission.

3. A Commissioner may not negotiate for personal remuneration for any activity related to or arising from his or her work with the Commission.