

## Explanatory Note

### The Voluntary and Humanitarian Bill 2006

There were many laws promulgated in the Sudan for the regulation of humanitarian work to cover the social , economical, political and cultural changes that took place since independence and ended by the promulgation of the Humanitarian Aid Commission Act 1996 .

In order that the voluntary humanitarian work cover the local regional and international changes in the humanitarian field and to cope with development of the understanding by the organizations and civil societies and non-governmental organizations in the treatment of the effect of emergencies and disasters, and satisfy the needs of the civil society that became the source for the provision of services in the field of health and social care and also became a counterpart in promotion of human rights and combating the effects of disasters and emergencies , therefore it is thought to promulgate an Act and hereunder its main features :

- (a) **Chapter one : Preliminary Provisions :**  
The most important matters dealt with under this chapter is provided for under section 5 providing for the principles that govern humanitarian work namely non discrimination, accountability and non interference in the internal affairs of the Sudan by foreign NGOs and under section 6 which provides for the objectives of humanitarian work namely in the peace process such as reconstruction of social and economic structures which have been destroyed by war, and care for the displaced and refugees and re-habilitation .
- (b) **Chapter two : Registration :**  
This Chapter deals with registration of national and foreign NGOs and civil society organizations and regulates the conditions of registration and issue of the certificates of registration, of its period. Also the chapter regulates appeal from decisions of refusal and cancellation of registration.
- (c) **Chapter three : Branches and Networking Organizations :**  
Under chapter five national and foreign organizations are given the right to establish branches and networking between themselves and with others regional or international organizations for the purpose of exchange of experiences and information and develop their performance. Also the registered national NGOs may form a national forum , council, conference or union to share information and experience, set standards and code of conduct for their members.

- (d) **Chapter four : The Humanitarian Aid Commission :**  
This chapter covers the provisions regulating the commission as regards its establishment , functions , appointment of the Commissioner General and his functions. Appointment of the Registrar and his/her powers where s/he has powers to register the organizations and issue registration certifies and may refuse or cancel registration in accordance with the provisions of this Act and the appeal process is provided for under section 14 of this Act .
- (e) **Chapter five : Contraventions and Penalties :**  
This chapter provides for contraventions and penalties and sanctions where the penalties are give to the court and the sanctions to the registrar with the approval of the Commissioner .
- (f) **Chapter six : General Provisions :**  
This chapter deals with the general provisions of the work of organizations , where they shall have corporate personality and shall submit reports to the Commissioner and be given the privileges provided for under section 27 . Section 28 vesting of property of organizations deals with in two situations i.e. in case of the cancellation of registration of the organization in response to an application from its general assembly , its funds shall be disposed settlement of its obligations and thereafter transfer surplus funds by agreement between the commissioner and the organization concerned to an existing project or any other organization, means and the desire of the organization the registration of which has been cancelled shall be considered ; and in case of cancellation of registration by a decision of the registrar or by an order of the court , all its property and funds shall vest in the project under its implementation before cancellation ; in case there is no such project, the same shall be transferred to another voluntary humanitarian work .

**Hence the accompanying Bill**

**Ministry of Humanitarian Affairs**

In the Name of Allah The Gracious The Merciful

**The Organization of Humanitarian  
and Voluntary Work Bill 2006**

Be it hereby enacted by the National Assembly , and assented to by the President of the Republic , in accordance with the Interim National Constitution of the Republic of the Sudan, as follows:-

**Chapter I**

**Preliminary Provisions**

**Title and Commencement**

1. This Act may be cited as “ The Organization of Humanitarian and Voluntary Work Act 2006 “

**Repeal and Saving**

2. The Humanitarian Aid Commission Act 1996 , shall be repealed ; provided that all the Regulations and measures made thereunder shall remain in force , until repealed or amended in accordance with the provisions of this Act.

**Supremacy of This Act**

3. The provisions of this Act shall prevail , in case of inconsistency with other laws to the extent that removes such inconsistency.

**Interpretation**

4. In this Act, unless the context otherwise requires, the following phrases and words shall have the meanings attached thereto:

“Reconstruction, rehabilitation, repatriation and resettlement “	includes projects and activities leading to the elimination of damage caused by emergency situations and the consequences thereof,
“Country Agreement”	means the set of rules regulations and directives that organize entry and activities of Foreign organizations in the Sudan,
“Networks”	means the networks of Non- Governmental voluntary organizations both national and foreign operating in the Sudan,
“Emergencies”	means any emergency which may affect humanbeings or the environment as a result of natural or non-natural factors or any other emergency that makes the human being unable to lead an ordinary life,

<b>“Humanitarian and Voluntary work “</b>	means any voluntary humanitarian not-for-profit activity carried out by an NGO or charitable organization whether national or foreign registered in the Sudan with the aim of providing relief, social service or raising the economic and social standards of the beneficiaries, including any civil society organization which renders humanitarian voluntary work in relevant fields,
<b>“Project”</b>	means a humanitarian relief, service delivery, rehabilitation, repatriation or resettlement programmes developed or implemented by an organization unilaterally or jointly with other organizations, government organs or group of persons,
<b>“ National non-governmental organization “</b>	means a Sudanese voluntary organization registered under this Act and does not include: (a) any company registered under the Companies Act 1925, (b) any political party , (c) any group which seeks to achieve partisan political objectives.
<b>“Foreign non-governmental organization”</b>	means a non-governmental or semi-governmental organization having international or regional characteristics registered in accordance with this Act or accredited to operate in the Sudan through the Country Agreement .
<b>“ Civil society organization “</b>	means a civil society organization undertaking voluntary, humanitarian, not – for-profit work and is registered in accordance with the provisions of this act,
<b>“ Charitable organization “</b>	means an organization set up by any Sudanese citizen or group of persons having financial means from a lawful source, which qualify him/ her or them to carry out and sustain charitable activities,
<b>“Commissioner”</b>	means the Commissioner General of Humanitarian and voluntary Aid appointed in accordance with the provisions of section 18 of this Act ,
<b>“The Registrar”</b>	means the Registrar General of Humanitarian and Voluntary Organizations appointed in accordance with provisions of section 20 of this Act,
<b>“Commission”</b>	means the Humanitarian Aid Commission (HAC) established under the provisions of section 16 of this Act,
<b>“Ministry “</b>	means the Ministry of Humanitarian Affairs,
<b>“Minister”</b>	means the Minister of Humanitarian Affairs.

### Principles Governing Humanitarian works

5. Humanitarian organizations shall be governed by the following principles :-
- (a) non-discrimination on the ground of race, gender, ethnicity, political affiliation or religious creed ,
  - (b) impartiality in the selection and designation of project areas with special consideration to areas in greater need for humanitarian aid,
  - (c) accountability to beneficiaries, donors and the concerned public authority for all services delivered in the field,
  - (d) sustainability of programme intervention for creating conditions for self-reliance of the local community in the long run,
  - (e) at all stages of project implementation, local community interests in service delivery shall be taken into consideration through participation of local community at all stages of project implementation,
  - (f) non-interference by foreign organizations in the internal affairs of the Sudan.

### Objectives of Humanitarian Work

6. The main objectives of the work of humanitarian organizations registered under this Act shall be , but are not limited to, providing the following services :-
- (a) providing emergency relief to people affected by natural or non-natural disasters, with focus on vulnerable groups,
  - (b) disaster prevention , reduction and management ,
  - (c) link emergency relief to recovery , reconstruction and development,
  - (d) care for Internally displaced persons, refugees and returnees through designing and implementing relief , rehabilitation and resettlement programmes in coordination with the bodies concerned,
  - (e) rehabilitation of the socio-economic infrastructure destroyed by war or natural disaster, in cooperation with national institutions established for this purpose,
  - (f) determine priorities for relief, repatriation, resettlement and rehabilitation in consultation and coordination with the relevant governmental authorities,
  - (g) local capacity building with a view to securing ultimate self dependence of national organizations,
  - (h) implementation of projects for relief, humanitarian work and service delivery shall be undertaken through NGOs, charitable and/or civil society organizations the goals of which are consistent with public policies and the interests of the beneficiaries,

## Donation and fund Raising

7. Donation and fund raising for the organizations programmes shall be undertaken through a project document to be approved by the Commission, as may be prescribed by the Regulations.

## Chapter II

### Registration

#### Registration of Voluntary Non- governmental, Charitable and Civil Society Organizations

8. (1) Voluntary charitable and civil society organizations undertaking humanitarian work shall register with the Registrar in accordance with the provisions of this Act .
- (2) All voluntary organizations , registered before the coming into force of this Act , shall take the necessary steps for compliance with the provisions hereof within a period of ninety days as from the date of the coming into force of this Act.

### Conditions of Registration

9. (1) Every national voluntary charitable and civil society organization shall satisfy the following conditions of registration , namely to:
- (a) submit an application to the registrar , containing a list of the names and addresses of the promoters the number of whom shall not be less than thirty.
  - (b) attach a certified copy of its constitution and organizational chart.
  - (c) file by its provisional director or chief executive or the provisional Board of Directors or board of trustees a certified resolution passed by its General Assembly establishing the organization,
  - (d) pay the prescribed registration fees.
- (2) Notwithstanding the provisions of subsection (1), the Minister may approve the registration of an organization on an application submitted by less than thirty persons, satisfying the same conditions provided for under the said subsection provided that the applicant or applicants shall exhibit financial ability, continuity of work and the sources of funding of the organization seeking registration.
- (3) For the purposes of registration, the following conditions shall be satisfied by a foreign voluntary organization, namely:
- (a) to have been registered in accordance with the law in force of the country of origin,

- (b) to submit a certified registration certificate authenticated by the Sudan Embassy or mission covering the respective country,
  - (c) to submit an application indicating the type of activity or work intended to be performed in Sudan,
  - (d) the activity or work sought to be performed shall not contravene the laws of the Sudan,
  - (e) is not based in or is originating from any country at war with the Sudan or boycotted by the Sudan ,
  - (f) submit a proof of its technical and financial capabilities to perform the activity or work to be carried out in Sudan and the sources of such capabilities,
  - (g) to sign the country agreement,
  - (h) to perform its programmes in coordination or with the participation of one or more national organizations.
  - (i) any other conditions to be laid down by the Minister,
- (4) The Council of Ministers on the recommendation of the Minister may exempt any voluntary work from any of the conditions of registration under subsection (1) .

### Granting of Registration Certificate

10. (1) The Registrar shall grant any organization, whether national or foreign that satisfies the conditions provided for by section 9, a certificate of registration.
- (2) If the Registrar decides to exercise his powers provided for under section 13 , he shall inform the applicant of his decision, and the applicant may file to the Minister an appeal against such a decision .

### Duration of Registration

11. The duration of the registration shall be one year renewable in accordance with the conditions specified by the regulations.

### Exemption from Registration

12. The United Nations or any of its Specialized Agencies and the International Committee of the Red Cross shall be exempted from the requirement of registration under this Act ; provided that they shall sign a technical agreement in the field of humanitarian work and adhere to the principles provided for in this Act .

### Refusal of Registration

13. (1) The Registrar may refuse the registration of any organization if :
- (a) the activities of the organization are incompatible with the principles governing humanitarian work provided for in section 5,
  - (b) the application contains false information ,

- (c) the organization fails to satisfy the conditions laid down in section 9(1) and (3) of this Act,
  - (d) its registration contravenes the laws of the Country.
- (2) The Registrar shall, except for security considerations, inform the organization of the reasons for refusal of registration .

### Cancellation of Registration

14. (1) The Registrar may cancel the registration of a national, foreign, charitable or civil society organization registered under this Act after he/she undertakes proper investigations and is convinced that :
- (a) the registration has been obtained by forgery or fraud or incorrect information ,
  - (b) the NGO, charitable or civil society organization has violated the provisions of this Act, the regulations or any other law in force,
  - (c) the said organization has, without acceptable justifications, failed to carry out its activities for a period of one year,
  - (d) the organization uses humanitarian assistance to obtain illegal gains for itself ,
  - (e) the organization submits to the registrar a resolution from its general assembly, for voluntary dissolution or the cancellation of its registration.
- (2) A Voluntary organization , the registration of which has been cancelled under subsection(1)(a),(b),(c) or (d) , may appeal against the decision of the registrar before the Commissioner within thirty days of such decision and may further appeal against the decision of the Commissioner before the minister within fourteen days of the issue of such a decision .
- (3) If the decision of cancellation of registration is taken under section 22(2)(d) the organization may appeal against such a decision to the minister within fourteen days from the date of the decision.

### Chapter III

#### Branches and Networking of Organizations

15. (1) NGOs, charitable and/or civil society organizations may, after notifying the Commissioner, establish branches in any area of their operations provided that such branches shall adhere to the constitution of the organization and get the approval of the authorities concerned .
- (2) NGOs, charitable and/or civil society organizations of similar objects registered in Sudan in accordance with this Act may, for the purpose of sharing experiences, enhancing professionalism or creating concerted efforts, establish networks among themselves or with other regional and international organizations.



- (3) Registered national NGOs may form a national forum, council, conference or union to share information and experiences, set standards and code of conduct for their members and define priorities in the areas of humanitarian voluntary work in the country.

## Chapter IV The Humanitarian Aid Commission

### Establishment of the Commission

16. There shall be established in the Ministry of Humanitarian Affairs a specialized unit to be known as "The Humanitarian Aid Commission"

### Functions of the Commission

17. (1) The Commission shall have the following functions, namely to :
- (a) raise the degree of awareness and promote the understanding and practice of voluntary and humanitarian work in coordination with others ,
  - (b) conduct training in disaster management at all levels in coordination with others,
  - (c) develop and maintain a comprehensive list of resource requirements in case of disaster and participate in resource mobilization whenever the need arises,
  - (d) initiate projects and determine the needs of humanitarian aid aiming at the alleviation of the impact of disasters whether natural or non natural , in coordination with the organs concerned,
  - (e) endeavour to build and maintain a strategic reserve of relief materials in order to meet basic needs in case of emergency.
  - (f) coordinate and facilitate entry of external agencies in response to disaster situations.
  - (g) mobilize internal and external efforts in coordination with the authorities concerned in order to forecast, prevent, or ameliorate the impact of disasters , rehabilitate affected areas and resettle the displaced ,
  - (h) follow up and evaluate all programmes of voluntary and humanitarian work in the Sudan.

### The Commissioner General

18. The President of the Republic shall on the recommendation of the Minister, appoint a Commissioner General for humanitarian and voluntary work and determine his emoluments and privileges.

- (c) to examine records of any NGO, charitable or civil society organization performing humanitarian work to ensure that its activities are carried out in accordance with the provisions of this Act or any other law ,
- (d) may supervise the elections of all national organizations registered under this Act, to ensure that such elections are carried out in accordance with their constitutions and the provisions of this act,
- (e) any other functions assigned to him by the Minister.

## Chapter V Contraventions and Penalties

### Contraventions

21. Any person or group of persons who practice an activity as voluntary organization without registration in accordance with this Act, shall be deemed to have committed a contravention, and be punishable .

### Sanctions

- 22.(1) Whoever contravenes section 21 , shall on conviction by a court of law be punished with imprisonment for a term not exceeding six months or with fine to be determined by the court or with both. In addition the court may order the confiscation of any funds which are the subject of the contravention.
- (2) In case of any other contravention by any organization, the registrar may with the approval of the Commissioner impose any of the following :
- (a) draw the attention of the organization,
  - (b) Issue a warning,
  - (c) suspend the activities of the organisation for a period not exceeding six months,
  - (d) cancel the registration of the organization .
- (3) Without prejudice to the right of the registrar to initiate criminal procedures against any person or persons for committing any offence or contravention to the provisions of this Act and the regulations made thereunder, the registrar may prohibit that person or persons from practicing humanitarian voluntary activity in the Sudan for a period not exceeding one year.
- (4) In case of conviction of any person by a court of law for an offence or contravention under sub-section (3), the court may, in addition to any other punishment , issue all/or any of the following orders :
- (a) confiscation of funds which are the subject to of the offence ,
  - (b) expulsion of the convicted non-Sudanese person from the Sudan .

### Functions of the Commissioner

19. (1) The Commissioner shall be responsible to the Minister for the implementation of humanitarian policies and plans and shall have the following functions namely to :
- (a) collect and assess information and indicators for predicting the occurrence of disasters and inform the competent authorities thereof ,
  - (b) organize and coordinate the operations of humanitarian aid in affected areas,
  - (c) conduct studies and research on disasters early warning and disaster preparedness in coordination with the authorities concerned ,
  - (d) conduct need assessment surveys to establish priorities and needs in the field of humanitarian assistance.
  - (e) mobilize internal and external efforts in coordination with the authorities concerned in order to forecast, prevent, or ameliorate the impact of disasters and reconstruct the affected areas.
  - (f) supervise training in disaster management at all levels,
  - (g) build and maintain a strategic reserve of relief materials in order to meet basic needs in case of emergency.
  - (h) organize and coordinate works and programmes Geographically and sectorally and supervise, evaluate and follow up voluntary and humanitarian work and settle disputes that may arise among such organizations or with any other bodies.
  - (i) carry out preliminary investigations with any organization to ascertain whether or not there is any contravention to the law and take the necessary legal procedure before the competent judicial bodies , if he deems that appropriate,
  - (j) supervise all administrative organs of the Commission,
  - (k) any other function assigned thereto by the Minister.
- (2) The Commissioner may delegate any of his functions to any person or committee on such conditions and limitations as he may deem necessary .

### The Registrar General

20. (1) The Minister shall appoint a Registrar General of voluntary humanitarian organizations and shall determine his emoluments and privileges.
- (2) The Registrar General shall have the following functions and powers :
- (a) to register Humanitarian, charitable and civil society organizations , issue registration certificate and refuse or cancel registration in accordance with the provisions of this Act,
  - (b) to keep all the basic documents and records of and reports on NGOs, charitable and civil society organizations,

- (c) to examine records of any NGO, charitable or civil society organization performing humanitarian work to ensure that its activities are carried out in accordance with the provisions of this Act or any other law ,
- (d) may supervise the elections of all national organizations registered under this Act, to ensure that such elections are carried out in accordance with their constitutions and the provisions of this act,
- (e) any other functions assigned to him by the Minister.

## **Chapter V** **Contraventions and Penalties**

### **Contraventions**

21. Any person or group of persons who practice an activity as voluntary organization without registration in accordance with this Act, shall be deemed to have committed a contravention, and be punishable .

### **Sanctions**

- 22.(1) Whoever contravenes section 21 , shall on conviction by a court of law be punished with imprisonment for a term not exceeding six months or with fine to be determined by the court or with both. In addition the court may order the confiscation of any funds which are the subject of the contravention.
- (2) In case of any other contravention by any organization, the registrar may with the approval of the Commissioner impose any of the following :
- (a) draw the attention of the organization,
  - (b) Issue a warning,
  - (c) suspend the activities of the orgnisation for a period not exceeding six months,
  - (d) cancel the registration of the organization .
- (3) Without prejudice to the right of the registrar to initiate criminal procedures against any person or persons for committing any offence or contravention to the provisions of this Act and the regulations made thereunder, the registrar may prohibit that person or persons from practicing humanitarian voluntary activity in the Sudan for a period not exceeding one year.
- (4) In case of conviction of any person by a court of law for an offence or contravention under sub-section (3), the court may, in addition to any other punishment , issue all/or any of the following orders :
- (a) confiscation of funds which are the subject to of the offence ,
  - (b) expulsion of the convicted non-Sudanese person from the Sudan .

## Chapter VI

### General Provisions

#### Corporate Personality

23. The National or foreign voluntary or charitable or civil society organization, registered under the provisions of this Act , shall have corporate personality as from the date of its registration.

#### Perusal of Instruments

24. A member of an organization, after giving sufficient and convincing reasons, may peruse the basic documents of an organization on payment of the prescribed fees.

#### Reports

25. (1) An organization registered under this Act shall prepare and submit the following reports to the Commissioner :
- (a) half yearly report on its works.
  - (b) annual progress report.
  - (c) a certified copy of annual Audit report, by a certified auditor,
- (2) The progress reports shall include budgetary summary and indicate any substantial changes in the work plan.
- (3) Any difficulties in the course of project implementation shall be reported to the Commissioner, with the necessary proposals.

#### Accounts Books & Records

26. (1) Every organization registered under this Act shall keep proper accounts, books and documents for its income and expenditures in accordance with sound accounting principles .
- (2) Every organization shall prepare its annual financial statements audited by a certified auditor.
- (3) No organization registered under this Act shall dispose of its movable and immovable property by way of sale, donation, mortgage, investment, or use that property in a manner contrary to the purposes for which it has been registered or the project under implementation .

### Privileges

27. (1) The National Minister of Finance and National Economy may, upon the recommendation of the Minister, exempt national or foreign organizations, charitable or civil society organizations registered under this Act from the following :
- (a) Custom duties and any other duties levied on imported goods, equipment, materials, and apparatuses imported for the implementation of its purposes under this Act,
  - (b) Taxes.
- (2) The exemptions under sub-section (1) shall be subject to the financial rules and regulations in force.
- (3) Any income allocated for voluntary and charity work shall be exempted from taxes.

### Vesting of property

- 28.(1) In case of the cancellation of registration of an organization in response to an application from its general assembly, its funds shall be disposed of as follows :
- (a) settlement of its financial obligations .
  - (b) transfer of the surplus funds by agreement between the Commission and the organization concerned to an existing project or to any other organization having the same objects or by any other means provided that the desire of the organization registration of which is cancelled shall be considered.
- (2) In case of cancellation of registration of an organization by a decision of the registrar or on an order by the court, all its property and funds shall vest in the project under its implementation before cancellation ; in case there is no such project, the same shall be transferred to another voluntary humanitarian work .

### Amendment of the objects of an Organization

29. Any organization registered under this Act shall not amend the objects for which registration has been granted, expand such objects, or amalgamate with any other organization without obtaining prior written approval of the Commissioner .

### Power to make Regulations, Rules and Orders

30. The Minister on the recommendation of the Commissioner, may make regulations, rules and orders necessary for the implementation of this Act .