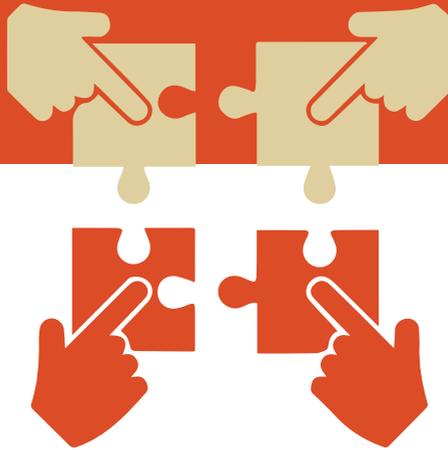


CODE OF CONDUCT FOR HUMAN RIGHTS DEFENDERS DURING ELECTIONS AND DEMOCRATIC PROCESSES IN TANZANIA



(Made under Article 6 and 37 of
the THRDC Constitution and
Paragraph 7.1 of the THRDC'S
Membership Policy)

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ABBREVIATIONS

CSOs	Civil Society Organizations
HRC	Human Rights Committee
HRDs	Human Rights Defenders
ICCPR	International Covenant on Civil and Political Rights
NEC	National Electoral Commission
NGOs	Non-Governmental Organizations
OHCHR	Office of the High Commission for Human Rights
THRDC	Tanzania Human Rights Defenders Coalition
ZCUs	Zonal Coordinating Units
ZEC	Zanzibar Electoral Commission

PREAMBLE

We Members of the Tanzania Human Rights Defenders Coalition (THRDC)/Human Rights Defenders (HRDs); **Inspired** by constitutional principles enshrined in the Constitution of the United Republic of Tanzania (1977), particularly Article 8(1), which emphasizes that the United Republic of Tanzania is a state which adheres to the principles of democracy and social justice. That the sovereignty of our country resides in the people and it is from the people that the Government shall derive all its power and authority.

Stressing that, Article 8(1)(d) of the Constitution, declares that the people of the United Republic of Tanzania shall participate in the affairs of their Government in accordance with the provisions of our Constitution.

Cognizant of the African Charter on Democracy, Elections and Governance of 2007, which is aimed at promoting adherence, by each State Party, to the universal values and principles of democracy and respect for human rights in elections and other democratic processes.

Reaffirming our collective will to work relentlessly to deepen and consolidate the rule of law, peace, security and development in our country by participating fully in elections and democratic processes;

Guided by our common mission to strengthen and consolidate institutions for good governance, unity and solidarity in our

country during elections and democratic process;

Committed to promote the universal values and principles of democracy, good governance, human rights and the right to development;

Recalling the duty of HRDs during elections while emphasizing issues of neutrality, accountability, non-partisanship, integrity and impartiality of HRDs during elections

Concerned also by the internal and external challenges facing HRDs in Tanzania, which hinders the realization of their work during elections and democratic processes to their maximum level

Bearing in mind the fact that HRDs have been playing a very significant role during entire election cycle in our country, ranging from the provision of voter's civic education, observation of elections, and other activities before election, during elections and in post-election period.

Desirous to address the misconception that HRDs are partisan and play an active political role during elections

Now, therefore, We Members of the Tanzania Human Rights Defenders/HRDs, agree as follows:

Approved by the THRDC Board of Directors in October 2019 and validated by the THRDC Members on 16th November 2019.

ACKNOWLEDGMENT

The preparation of this work has been successful as a result of the efforts of the Tanzania Human Rights Defenders Coalition, THRDC members, various individual Human Rights Defenders and development partners. We would like to acknowledge their tremendous contributions during the whole period of writing this Code of Conduct. Words of appreciation in particular are extended to the esteemed development partners.

Sincere gratitude is extended to the Tanzania Human Rights Defenders Coalition National Coordinator, Mr. Onesmo Paul Olengurumwa for his guidance from stage one of this code up to the end. His scholarly guidance, comments and valuable criticisms have enabled to come up with this code of conduct.

Special thanks go to the THRDC Secretariat, Adv. Joyce Eliezer, Mr. Paul Kisabo, Adv. Leopold Masha and Adv. Deogratias Bwire for their skills and tirelessly efforts in writing the Code of Conduct

We are also indebted to the editors for their assistance in proofreading, editing and for their comments on the content and set up the final draft of this code of conduct.

INTERPRETATION

Active political activity- shall include partisan activities or activities affiliated to political parties such as contesting for political positions, political campaigns, soliciting or engaging in partisan fundraising activities, serving as the sponsor of a political party, bearing an office position within a political party, wearing political colours, badges or slogans, accepting favours from political parties or candidates, becoming a representative of a political party.

Civic education- shall mean provision of information and learning experiences to equip and empower citizens to participate in democratic processes.

Code of conduct—shall mean a set of codes, values, principles outlining the norms, rules, prohibitions and responsibilities of, and or proper practices for, a HRD or a member.

Common election activities by HRDs- these include widely and universally accepted activities conducted by Human Rights Defenders during election cycles: these include among others the provision of civic and voter education, monitoring and observation of elections, issuing public manifestos, advocating for electoral laws reforms, advocating for free and fair election, challenging election irregularities, advocating for peace and security during elections

Election cycle- shall mean three electoral phases: pre-election, during election and post-election activities.

Human rights defender - Shall mean any person whether individual or an organization who defend human rights from different thematic areas as enumerated in this code of conduct.

Non-partisanship- shall mean not biased on political ideology, especially towards any particular political group or candidate.

Political impartiality- shall mean neutrality, independence, objectivity, fairness, balance and open-mindedness.

Zonal Coordinating Units- shall mean the Organization appointed by the THRDC National Coordinator in accordance to the ZCUs Operational Guidelines.

EXECUTIVE SUMMARY

The Tanzania Human Rights Defenders Coalition is a membership organization having 200 organizations and individual members in Tanzania mainland and Zanzibar. All these members are human rights defenders.

THRDC members and HRDs for a long time have been engaging in election cycles and democratic processes without having any policy, law or code of conduct guiding them. This has led to the existence of complaints against HRDs that they have been engaging into active political activities.

To cure such a defect, THRDC has developed this code of conduct to guide members and HRDs engagement in election cycles and democratic processes. The code provides for the mechanisms that a HRD must adhere to ensure a neutral and effective engagement in election cycles and democratic processes in the country. The code consists mainly of three parts.

Part one provides for the background. It illustrates the concepts of democracy, major pillars of democracy, election, Human Rights Defenders and their rights, HRDs core values and principles.

Part two is a fundamental one as it consists the codes that THRDC members and human rights defenders must adhere during election cycles and democratic processes in Tanzania.

Part three is basically on the enforcement framework of the code of conduct. It provides that, enforcement of the code shall be governed by the THRDC Constitution.

BACKGROUND

1.0 Introduction

The Tanzania Human Rights Defenders Coalition (THRDC) is an umbrella organization comprising membership of both organizations and individual human rights defenders in Tanzania. The main objective of the Coalition is to work towards enhanced security and protection of human rights defenders (HRDs) in Tanzania. It also works to strengthen regional and international interventions towards protection and promotion of the rights and responsibilities of HRDs.

THRDC members in Tanzania are divided into eleven (11) operational zones. Each zone is led by a Zonal Coordinating Unit (ZCU). The aim is to extend its wings down to the grassroots levels.



1.1 THRDC Operational Zones

	ZONE	REGIONS
01	East Coast Zone	Dar es Salaam and Coastal Region
02	Central Zone	Dodoma, Morogoro and Singida
03	Lake Zone	Mwanza, Mara and Simiyu
04	Northern Zone	Kilimanjaro, Arusha, Tanga and Manyara
05	Southern Zone	Iringa and Njombe
06	Southern Highland	Mbeya, Songwe and Rukwa
07	Southern Coast Zone	Ruvuma, Mtwara and Lindi
08	Western Zone	Tabora, Kigoma and Katavi
09	Western Lake Zone	Kagera, Geita and Shinyanga
10	Pemba Zone	Pemba – Zanzibar
11	Unguja Zone	Unguja – Zanzibar

Currently in the aforementioned zones, THRDC has 183 organizations and 17 individual members. All these members are Human Rights Defenders (HRDs). THRDC members engage in various aspects in the society, they are dedicated in promotion and protection of human rights in Tanzania.

1.2 Thematic Areas of THRDC Members

THRDC organizational membership is grouped into 9 thematic areas as illustrated below;

During the implementation of the past five years Strategic Plan (2013-2018), THRDC focused on institutional building advocacy, capacity building and protection of human rights defenders.

1.3 Rationale for this Code of Conduct

THRDC members and HRDs for a long time have been engaging in election cycles and democratic processes without having any policy, law or code of conduct guiding them. This has led to the existence of complaints against HRDs that they have been engaging into active political activities.

Furthermore, it has been noted that during previous elections, HRDs have been facing a lot of security incidents such as, attacks, arrests, abductions, intimidations and other related incidents.

To cure such a defect, THRDC has seen a practical need to develop this code of conduct to guide THRDC members and HRDs engagement during election cycles and democratic processes.

1.4 Democracy

According to the 16th President of the United States, Abraham Lincoln, democracy is government of the people, by the people, and for the people. Democracy is a system of government where all citizens are equal before the law and are involved in decision making either directly or indirectly through their elected officials. It is the rule of the people, and the rulers rule basing on the consent of the people.

According to the Constitution of the United Republic of Tanzania 1977, Tanzania is a democratic country and sovereignty resides in the people. Article (8) of the Constitution

states that, *“The United Republic of Tanzania is a country that adheres to the principles of democracy and social justice,”* and therefore the people are the basis of all power, and the government shall derive all its powers and authority from the people in accordance with the Constitution. The Government is accountable to the people.

Article 4 of the African Charter on Democracy, Elections and Governance obliges state parties to commit themselves to promote democracy, rule of law and human rights. It further stresses that, state parties shall recognize popular participation through universal suffrage as the inalienable right of the people.

1.5 Major Pillars of Democracy

The concept of democracy is built on five major pillars. These are; Truth and Transparency, Free and Fair Elections, Good Governance, Separation of Power and equality before the law. These pillars of democracy are the basis of the insurance of the rights and freedoms of the people. They are the key to an effective democratic society where all citizens are treated equally and with dignity. It is a dream of HRDs across the country to see Tanzania which adheres to the democratic principles.

Therefore, in short, democracy is the system of government in which power and civic responsibility are exercised by all adult citizens, directly, or through their freely elected representatives. Democracy rests upon the principles of majority rule and individual rights.

1.6 Election

An election can be defined as a formal group decision-making process by which a group of people chooses an individual to hold public office. It is through this process; citizens of a particular country are involved in electing individuals who take part in the leadership of their country.

In order to ensure public participation in elections, HRDs and other relevant groups in the society participates by conducting awareness campaigns, civic and voter education and other important engagements.

Article 2(13) of the African Charter on Democracy, Elections and Governance obliges states to promote best practices in the conduct and management of elections for purposes of political stability.

1.7 Universal Activities of HRDs During Election Cycles

Pre-election period	During Election Day	Post-Election Period
i) Monitoring Voter Registration(BVR)	i) Poll Observation	i) Dispute Resolution
ii) Voter and Civic Education	ii) Observing Tallying and counting process	ii) Post-election meetings and assessment
iii) Constitutional and Legal Reforms	iii) Observing results	iii) Issuing election
iv) Monitoring party Nominations	Announcement	observation reports
v) Monitoring election campaigns		
vi. Election manifestos		

1.8 Human Rights Defenders (HRDs)

“Human rights defender” is a term used to describe people who, individually or with others, take action to promote or protect human rights. Human rights defenders are identified above all by what they do, and the term can therefore best be explained by describing their actions and some of the contexts they work in.

Human rights defenders' work is legal and legitimated by the civil society they represent.

Every day around the world hundreds of human rights defenders are exposed to political violence due to their defense of the rights of others. Risking their own physical and mental integrity, they strive to bring an end to impunity of human rights violations and to promote social justice and peace.

In the year 1998 the United National General Assembly approved the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”.¹

In other words, fifty years after the Universal Declaration of Human Rights, and after twenty years of negotiations on a draft declaration on human rights defenders, the United Nations finally recognized what is a reality: that thousands of people were promoting and contributing to the protection

¹ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. A/RES/53/144, 8 March 1999

of human rights throughout the world. This is an inclusive Declaration that honours the amount and variety of people engaged in the promotion and protection of human rights.

1.9 Rights of HRDs During Election Cycle and Democratic Processes

i) The right to vote and/or to be voted for

Article 21(1) of the Constitution of the United Republic of Tanzania, 1977 provides that

“... every citizen of the United Republic is entitled to take part in matters pertaining to the governance of the country, either directly or through representatives freely elected by the people, in conformity with the procedures laid down by, or in accordance with, the law”.

Sub-article (2) of the same Article of the Constitution provides that, every citizen (HRDs included) has the right and the freedom to participate fully in the process leading to the decision making on matters affecting citizens and the well-being of the nation.

Therefore, the right to vote and/or to be voted is the cornerstone in any democratic nation and if denied or revoked, democracy in its most basic sense fails.

ii) The right to take part in public affairs and elections

This guarantees the right of citizens to stand for public office, to vote in elections and to have access to positions in public

service. Principally elections have to be free and fair in any democratic state. HRDs have a right to advocate for equality of the people to access equal positions in public service and in elections.

HRDs are supposed to make sure that all groups of people in the country have an equal opportunity in accessing public services and their interests have to be materialized. A good example is that, once an election approaches in the country, CSOs have adopted a tendency of drafting an election manifesto proposing things to be taken into account by the political candidates and the government as they are the peoples' needs at that particular moment. For example, the 2019/2020 Tanzania CSOs election manifesto contains 10 priorities including adherence to gender equality and respect of the rights of special groups.

In the course of participating in public affairs during election cycle, THRDC members and HRDs have also a right to provide civic and voter education after acquiring permits from relevant authorities. HRDs have to utilize this right effectively in any election cycle.

iii) The right to be protected

The legal recognition and protection of human rights defenders is crucial to ensure that they can work in a safe, supportive environment, free from attacks, reprisals and unreasonable legal restrictions. The UN Declaration on Human Rights Defenders, bestows the duty of protecting HRDs on states. Articles 2, 9 and 12 of the Declaration

summarily provides that States bear the primary responsibility for protecting defenders, under their jurisdiction, regardless of their status or ideological affiliations.

Moreover, the International Covenant on Civil and Political Rights which is a binding instrument, under article 2 establishes the obligation of States to guarantee to all individuals within their territories and subject to their jurisdiction the rights without discrimination.

iv) The right to participate in decision making

This is the basic right in any democratic nation, HRDs have right to participate in decision making by airing out their opinions or views for the welfare of the people in the nation without any unjustifiable restrictions or interference. Participation involves engagement by the public in the conduct of public affairs, which can be political, social, economic, or cultural.

It is important to consider “participation” as it means “will of the people in decision making, acceptability of decisions, political legitimacy about needs and priorities of individuals, communities and different interested groups”. This cannot be overlooked for Human Rights Defenders, as they have the right to air out their opinions on the progress of national democracy including participating in elections and democratic process.

v) The right to freedom of association and peaceful assembly

Freedom of association is simply the choice with whom to

associate without any unjustifiable restrictions. Freedom of assembly is the freedom to gather with others for a specific purpose, with a specific goal in mind. Therefore, HRDs have a right of coming together with other individuals to collectively express, promote, pursue and/or defend common interests. Freedom of peaceful assembly, sometimes is used interchangeably with the freedom of association.

Article 20(1) of the Constitution of the United Republic of Tanzania provides for the right to freedom of association. Furthermore, among the objectives of the NGOs policy of 2001 were to put in place NGOs registration procedures which are transparent, decentralized and which will facilitate better coordination of NGOs while safeguarding the freedom of association.

This right is also guaranteed under the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples Rights (ACHPR), and the African Charter on Democracy, Elections and Governance, among other human rights instruments. Human Rights Defenders have the right to freedom of association and peaceful assembly to advocate for various issues on the roles and rights of HRDs and other citizens in the country.

The right to freedom of association guarantees the freedom of a HRD to join into membership of a political party of his or her own choice. With his or her own free will a HRD has the right to vote for a leader in such a political party. What is prohibited is active engagement into political party's activities.

vi) The right to constructive criticism

In a democratic country, sovereignty resides in the people. People surrenders some of their rights to the government leaders for protection. This kind of relationship is known as a social or political contract between the people and the government.

A social contract or political contract is an agreement between the people and the government. The people agree to follow certain rules made by the government. These rules are usually called laws. Laws help to make sure people have rights and that their rights are protected. Once their rights become unprotected, the people have the right to criticize the government.

Therefore, criticizing the government is not only a right but also a duty of every citizen and HRDs. Criticism is the foundation of holding the authority accountable to their duties, roles and promises. Thus like any responsible citizens, human rights defenders have a duty to hold the government accountable by criticizing the wrongs and advocating for change and progress by drafting proposals on what should be done. HRDs can take the duty further by engaging the government agencies directly in discussions on the adoption of the proposals and closely monitoring the process.

vii)The right to peaceful protest

The right to protest is a human right arising out of a number of recognized human rights. While no human rights instrument or national constitution grants the absolute right to protest,

such a right to protest may be a manifestation of the right to freedom of assembly, the right to freedom of association, and the right to freedom of speech.

It simply means peoples' coming together at a particular time and express their common goal over something. Protesting, however, is not necessarily violent or a threat to the interests of national security or public safety. Nor is it necessarily civil disobedience, because most protest does not involve violating the laws of the state. Also, since it is an expression of a universal right, choosing to lawfully protest is not a violation of state laws.

viii) The right to freedom of opinion and expression

The This right is defined as a freedom to hold opinions without interference, right of access to information and to impart information and ideas of all kinds through any media regardless of frontiers, either orally, in writing or in printing, in the form of art, or through any other media of choice. Basically freedom of expression includes press/media freedom.

This right has to be enjoyed also through online platforms. It is protected both online and offline. This freedom is essential for the citizens to hold the government, other bodies and officials accountable by expressing their concerns and opinions through media platforms of their choice.

Right to freedom of expression is guaranteed and protected under Article 18 of the Constitution of United Republic

of Tanzania of 1977. It is one of the participation rights - rights essential for enjoyment of the right to participate in governance. According to the Human Rights Committee (HRC), this right 'is a necessary condition for the realization of the principles of transparency and accountability in the democratic country, in turn, essential for the promotion and protection of human rights in elections and democratic process.

ix) The right to solicit for resources

THRDC members and HRDs have the right to request or solicit for resources for engaging in different activities during election cycles and democratic processes. Resources for activities such as: conducting civic and voter education, awareness campaigns, public dialogues, preparing election and democratic agenda(s) or manifestos and for conducting monitoring and observations.

1.10 HRDs Core Values and Principles

While observing this code of conduct, HRDs shall promote and defend the following core values and principles:

- a. HRDs must make sure throughout the election process; they are not affiliated to any political party, politician or an election candidate. (Principle of non-partisanship)
- b. HRDs must take good care of the resources they are entrusted with and make sure that they are used for the intended purpose (Principle of Stewardship).

c. HRDs must explain how they have used their resources and results achieved, to all stakeholders, including beneficiaries (Principle of Accountability)

d. HRDs must be open about their work, information on their activities and plans have to be made available to relevant stakeholders (Principle of Openness)

e. HRDs must operate with honesty and propriety during election cycles (Principle of Integrity)

f. THRDC members and HRDs engaging in election cycle and democratic processes shall be guided by the principle of total impartiality and shall refrain from any discrimination in relation to any candidate

g. HRDs' system for keeping financial records and documentation in election cycles must observe internationally accepted accounting standards and principles.

h. Any restrictions during election cycle which may be placed on the exercise by HRDs of the rights to freedom of expression, peaceful assembly and association must be consistent with international legal obligations.

i. HRDs shall be permitted to carry out their peaceful work in a hospitable environment, free from fear of harassment, reprisal, intimidation and discrimination during election cycle.

j. Acknowledging governments' authority to regulate entities within their territory to promote the public welfare,

such laws and administrative measures should protect--not impede--the peaceful operation of HRDs and be enforced in an apolitical, fair, transparent and consistent manner.

k. Criminal and civil legal actions brought by governments against HRDs, like those brought against all individuals and organizations, should be based on tenets of due process and equality before the law.

l. Governments should not interfere with HRDs' access to domestic and foreign-based media during election cycle and in all democratic processes.

m. The government and HRDs shall promote freedom and autonomy of HRDs, self-governance and self-regulation during election cycles.

n. HRDs have to respect the fundamental human rights and freedom about social Cultural and religious beliefs when engaging in election cycles.

THE CODE OF CONDUCT

2.0 Purpose of the Code

The main purpose of this code of conduct is to establish core values and principles that shall guide the conduct and operations of HRDs engagement in election cycle and democratic process in Tanzania. It shall be a formal guiding instrument for human rights defenders in particular members of the Tanzania Human Rights Defenders Coalition.

The code of conduct intends;

a)To provide civic understanding on the roles of HRDs in election cycles

b)To guide HRDs in monitoring and observation of the election process in Tanzania

c)To raise awareness on the rights and opportunities of HRDs available in elections and democratic process

d)To equip HRDs with knowledge on how to engage securely, neutrally and effectively into elections and democratic process

2.1 Scope of the Code

This code of conduct shall apply in Tanzania mainland and Zanzibar. It shall only regulate and coordinate registered and non-registered HRDs who are members of the Coalition

and potential members of the Coalition.

2.2 HRDs must Adhere to the following Codes During Election Cycle

2.2.1 HRDs must understand and adhere to local and international electoral Laws, Rules, Regulations and any amendments thereto.

2.2.2 HRDs shall provide civic and voter education to the people in accordance to the existing laws

2.2.3 HRDs shall engage in partnership with the electoral management bodies (NEC, ZEC), the media and other relevant stakeholders in providing civic and voter education

2.2.4 HRDs shall prepare election agenda(s) and public manifestos

2.2.5 HRDs shall conduct public dialogues and discussions on issues related to elections and democratization.

2.2.6 HRDs shall undertake election monitoring and observation with an objective of establishing whether an election process meets required national and international standards.

2.2.7 HRDs shall observe and expose the electoral malpractices and providing useful recommendations.

2.2.8 HRDs must ensure that they play a very important role in collaboration with other stakeholders to facilitate a free and fair election process free from violence and intimidations.

2.2.9 HRDs shall report any restrictions, attacks or threats against them to the security organs, the Coalition and other relevant bodies.

2.2.10 HRDs must adhere to the core values and principles enshrined in this code of conduct.

2.2.11 HRDs either individually or jointly can solicit resources for engaging in election cycle and democratic processes

2.2.12 A HRD shall refrain from engaging in active political activities in support of or opposition to any political party or candidate for elective public office (including giving or receiving funds or endorsements), nor shall HRDs resources be used for such purposes.

2.2.13 HRDs throughout the election cycle, shall never wear political colours, badges or slogans, and should not accept favours from political parties or candidates.

2.2.14 A HRD shall not contest for any political office while he is a leader or a staff of a certain CSO.

2.2.15 If a HRD intends to contest for a political office, he/she must declare and resign from his position one (1) month before the official commencement of the election campaigns.

2.2.16 If a THRDC member becomes appointed or elected into a political office (in the government, parliament or political party), shall automatically cease from being a member of the Coalition and his or her respective organization shall appoint another person to assume his or her roles immediately.

CODE ENFORCEMENT

3.0 Enforcement

There shall be two levels of enforcing this code of conduct: the Zonal Coordinating Units (ZCUs) and the Secretariat of the Tanzania Human Rights Defenders Coalition.

The Coalition, through its ZCUs at zonal level shall coordinate and supervise implementation of this code of conduct. The Coalition, through its ZCUs shall provide advice, recommendations or compliments to members and HRDs or to a potential member of the Coalition.

The National Coordinator of the Coalition where necessary shall provide a reasonable warning to a member whose act or omission violates this code of conduct.

Failure to comply with such warnings, other THRDC Constitutional disciplinary procedures shall apply. Taking into consideration that breach of this code is one of the Constitutional misconduct under THRDC Constitution.

The ZCUs shall provide a bi-annual report to the Coalition on the implementation status of the code of conduct during election cycles. The Members Affairs Desk shall submit a ZCU collective report to the Coordinator.

This code of conduct shall be amended from time to time based on recommendations of HRDs and resolutions of members.

This Code of Conduct has been issued pursuant to the THRDC's Constitution, Membership Policy and ZCU Operational Guidelines. A breach of this Code will be dealt in joint with these documents all together.