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# How to Be Freed from a Leadership Curse? A Political 'Code of Conduct' by the Nandi Council of Elders during the 2013 Elections in Kenya

Chloé Josse-Durand

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## How to Be Freed from a Leadership Curse? A Political 'Code of Conduct' by the Nandi Council of Elders during the 2013 Elections in Kenya

Chloé Josse-Durand

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### Abstract

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In April 2012, more than a year before Kenya's 2013 elections, the Nandi *Kaburwo* Council of Elders in Nandi Hills undertook the original task of writing the Nandi County Political Code of Conduct (NCPCC). Throughout Kenya, the pre-election period was characterized by a significant involvement of councils of elders in spreading messages of peace and promoting "good leadership," unlike 2007 when these councils played an active role in mobilizing Kenyans to take part in the post-electoral violence. Printed as an 8-page booklet, the NCPCC was targeting local candidates, their supporters and political parties. It displayed regulations aimed to contribute to the "transformation of Nandi County" into a prosperous place, an "island of new politics, free of political madness." Inspired from the role models of the Kenyan "Goodwill Ambassadors" for peace put in place in 2012, and based on oral narratives about iconic pre-colonial Nandi leaders—such as Kimnyolei and Koitalel Samoei—, this code of conduct brings to light cultural, social, economic and political dynamics mobilized by a wide range of actors (NGO, elders, candidates, entrepreneurs) during electoral times. Therefore, I believe it is crucial for the researcher to present and analyze it as a primary source that illustrates the aspirations and strategies of a local elite with their own conception of leadership. More broadly, through this original document, one can question the role played by councils of elders in Kenyan politics from a grassroots perspective, as well as the role they play in "re-inventing" their political history under the guise of preserving traditions.

**Keywords:** Kenya, local elite, elections, Council of Elders, political code of conduct, Nandi.

## Résumé

Comment conjurer une malédiction de leadership ? Le ‘code de conduite’ politique du Nandi *Council of Elders* lors des élections de 2013 au Kenya

En avril 2012, plus d’un an avant les élections générales de 2013 au Kenya, le Nandi *Kaburwo Council of Elders* a entrepris la rédaction d’un code de conduite politique pour la région de Nandi Hills, le Nandi County Political Code of Conduct (NCPCC). Dans tout le pays, la période préélectorale a vu une implication sans précédent des conseils des anciens, appelés à diffuser des messages de paix et à promouvoir un meilleur « leadership », alors que ces mêmes conseils avaient activement mobilisé les Kenyans à participer aux violences postélectorales de 2007. Imprimé sous la forme d’un livret de 8 pages, le NCPCC s’adresse aux candidats locaux, à leurs supporters et à leurs partis politiques. Les nombreuses régulations listées par le code visent à la « transformation du Comté de Nandi » pour en faire une région prospère, une « île libérée de la folie politique » qui ouvrirait la voie à un « nouvel ordre politique ». Les rédacteurs du code se sont inspirés du modèle des « Ambassadeurs de bonne volonté » pour la paix mis en place en 2012 au Kenya, mais aussi de traditions orales portant sur des leaders emblématiques de l’histoire précoloniale Nandi – tels Kimnyolei et Koitalel Samoei. Ainsi, ce code met en lumière les dynamiques culturelles, sociales, économiques et politiques d’un grand nombre d’acteurs (ONG, anciens ou « sages », candidats aux élections, entrepreneurs) en période électorale. Ce document doit par conséquent être placé au cœur de l’analyse du chercheur en tant que source primaire qui illustre les aspirations et les stratégies d’une élite locale ayant sa propre conception de l’exercice du pouvoir. Plus généralement, ce document original permet de s’interroger sur le rôle joué au Kenya par les conseils des anciens au niveau local, ainsi que sur leur volonté, sous couvert de « préserver la tradition », de « réinventer » leur propre histoire politique.

**Mots-clés :** Kenya, élite locale, élections, conseil des anciens, code de conduite politique, Nandi.

## Resumen

Como libertar-se de uma maldição de leadership? O ‘Código de Conduta Política’ do *Council of Elders* (Conselho dos Anciãos) de Nandi durante as eleições de 2013 no Quênia

Em abril de 2012, mais de um ano antes das eleições gerais de 2013 no Quênia, o *Council of Elders* (Conselho dos Anciãos) Kaburwo de Nandi tomou a seu cargo a tarefa da redação de um código de conduta política para a região de Nandi Hills, o *Nandi County Political Code of Conduct* (NCPCC). Em todo o país, o período pré-eleitoral caracterizou-se por um envolvimento sem precedente dos conselhos dos anciãos na divulgação de mensagens de paz e na promoção de uma melhor liderança, ao contrário de 2007 quando estes mesmos conselhos tinham desempenhado um papel ativo na mobilização dos quenianos para participarem na violência pós-eleitoral.

Impresso como uma brochura de 8 páginas, o NCPCC destinava-se aos candidatos locais, seus apoiantes e partidos políticos. Continha uma série de regras destinadas a contribuir para a “transformação do Condado de Nandi » numa região próspera, uma “ilha livre da loucura política” que abriria caminho a uma “nova ordem política”. Os

redatores do código inspiraram-se no modelo dos “Embaixadores de boa vontade” a favor da paz instaurado em 2012 no Quênia, mas também nas narrativas orais sobre chefes emblemáticos da história pré-colonial da comunidade Nandi – como Kimnyolei e Koitalel Samoei. Assim, este código articula as dinâmicas culturais, sociais, económicas e políticas de um grande número de intervenientes (ONG, anciãos ou “sábios”, candidatos às eleições, empresários) durante o período eleitoral.

É, pois, crucial para o investigador apresentar e analisar este documento como uma fonte primária que ilustra as aspirações e as estratégias de uma elite local com a sua própria conceção de liderança. Em termos mais gerais, este documento original permite questionar o papel desempenhado pelos conselhos dos anciãos na política queniana ao nível local, bem como o seu papel na “reinvenção” da sua história política sob o pretexto da preservação das tradições.

**Palavras chaves:** Quênia, elite local, eleições, conselho dos anciãos, código de conduta política, Nandi.

# How to Be Freed from a Leadership Curse?

## A Political ‘Code of Conduct’ by the Nandi Council of Elders during the 2013 Elections in Kenya

Chloé Josse-Durand

IFRA Nairobi

<https://orcid.org/0000-0002-3363-6799>

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Updated references were added to the initial version.

As I was conducting a research mission<sup>1</sup> in Nandi County, Kenya, the 2013 March elections campaign reached its climax: political meetings followed one another in the small central square of Nandi Hills town, where newspapers vendors had installed benches, inviting readers to stop by and open the *Daily Nation*, *The Standard*, or the *Kass*, a popular Kalenjin weekly paper. Party activists, deployed by competing political parties to engage in verbal jousting, had monopolized a few of these benches in various crowded locations throughout the city. They had rearranged them in square formations where, wearing T-shirts and caps showcasing the colours of their party, they were confronting each other in vibrant verbal wrestling matches. A few days before the election of six important representatives (the President of Kenya, the Member of Parliament, the Senator, the County Governor, the Women’s Representative and the Member of the County Assembly), tensions and hopes were feeding the political competition as the new administrative make-up (devolution) was to give an increasingly important role to territorial collectivities that could potentially favour the renewal of the political class.

However, other actors had chosen to engage with the campaign away from this effervescence, using a more rational approach based on elaborated strategies with clear objectives. More than a year before the holding of elections, the Nandi *Kaburwo* Council of Elders,<sup>2</sup> an organization that presents itself as a gathering of elders and knowledgeable individuals from the Nandi community, had undertaken the task

1. This 3-week fieldwork mission, which was made possible thanks to the financial support of IFRA-Nairobi, was conducted as part of my PhD research in political science (2011–2016). It aimed at highlighting the use of cultural heritage in identity politics through the case study of a community museum-mausoleum dedicated to a local hero, Koitalel Samoei, in Nandi Hills, Nandi County, Kenya.

2. The elders shared with me the translation for *kaburwo*, meaning “the shade of the tree” in Kinandi. It is reminiscent of the lengthy palavers the elders were holding in the shade of centennial fig trees, which were socially and religiously respected locations by the Nandi. It

of writing the Nandi County Political Code of Conduct (NCPCC).<sup>3</sup> This code of conduct, printed as a 8-page booklet, was targeting local candidates, their supporters and political parties. A number of regulations expressed by this code aimed at contributing to the “transformation of Nandi County” into a prosperous place, an “island of new politics, free of political madness.”<sup>4</sup> Adopted in April 2012, the NCPCC was distributed by the Nandi *Kaburwo* Council of Elders with the support of the Center for Community Dialogue and Development (CCDD), a peace-building NGO promoting councils of elders as catalysts of unity and community empowerment.<sup>5</sup> It is interesting to note that this code of conduct was born in the midst of a controversy rooted in both the Kenyan national and regional political scenes. It all began in November 2010, when Bethuel Kiplagat, a prominent Kalenjin figure in Kenyan politics, was convicted for his involvement in the Wagalla Massacre<sup>6</sup> and dismissed by the Truth, Justice and Reconciliation Commission (TJRC) which he presided. The Kalenjin Council of Elders,<sup>7</sup> the authority to which the Nandi *Kaburwo* Council of Elders is subjected, took his defence through the voice of the journalist Joshua Sang. Sang was then named head of the Kalenjin Council of Elders shortly after the

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explains why this symbol was chosen by these elders to represent the Nandi Council and the drawing of a tree with large branches found on the front cover of the NCPCC.

3. Ben, a young Nandi singer, shared this document with me. During the political campaign, he was paid by local politicians to write a song in Kalenjin entitled “Uhuruto,” whose video clip was filmed in Kapsimotwa Gardens, a luxurious yard located in one of the many properties of President Daniel arap Moi in the region. In this campaign song, Ben sings the praises of tomorrow’s leaders and of their political coalition (Jubilee): Uhuru Kenyatta, and more specifically, William Samoei Ruto. Ruto was then the young leader of the United Republican Party (URP) – whose electoral basis is mainly Kalenjin – who enjoyed a great success in the region. It is during the URP’s campaign in Nandi County that Ben, an active supporter, received a copy of the NCPCC.

4. The precepts of this code of conduct were established during a meeting gathering different community-based organizations from Nandi County, under the leadership of Denis Kogo, then President of the Rift Valley Development Trust. For more details on the creation of this code of conduct, see Koech (2011).

5. “Vision and Mission: create a safer future for the world by working with local communities to identify their societal problems.” Source: official website of CCDD. Link: <http://www.cddkenya.org/> [archive].

6. Bethuel Kiplagat is a Kalenjin figure close to President Moi. He was assigned to various important administrative and diplomatic positions from 1978 to 1983. He gained international recognition as the chairman of the Africa Peer Review Mechanism of the New Partnership for Africa’s Development (NEPAD) and as a member of the International Crisis Group (ICG). Named chairman of the Kenya’s Truth, Justice and Reconciliation Committee in August 2009, he was forced to step down in November 2010 due to a report mentioning his implication in the murder of former Foreign Affairs Minister Robert Ouko and in the killings of approximately 3,000 Muslim Kenyans of Somali origins perpetrated in 1984 by the Kenyan Security Forces in Wagalla, North Eastern Province.

7. The Kalenjin Council of Elders offices are based in Eldoret. The Kenyan law recognises the right for subnational communities to be represented by a Council of Elders, that can constitute itself as a moral person. The Nandi *Kaburwo* Council of Elders is one of ten “*bororosiek*,” or sub- groups, of the Kalenjin Council of Elders.

adoption of the NCPCC. Bethuel Kiplagat was finally reinstated as TJRC Chairman in April 2012 through the intervention of the influential Minister of Justice Eugene Wamalwa. Meanwhile, two weeks prior to Joshua Sang's nomination, the Kalenjin Council of Elders refused to recognize William Ruto as the favoured candidate of the Kalenjin community for the presidential elections, on the basis that he was convicted for crimes against humanity<sup>8</sup> by the International Criminal Court (ICC). As Bethuel Kiplagat was a former member of President Daniel arap Moi's administration, some considered his removal from office as an attempt to consolidate Kalenjin clientelist networks around Moi's clique. Others condemned it as a kinship betrayal, trying to reframe the supposed Kalenjin unity around William Ruto in an attempt to galvanize the Kalenjin voters into fully rallying behind the United Republican Party (URP). In order to close the debate, Joshua Sang declared the Council of Elders to be a neutral institution: it should not choose one party over another, and commit itself to work hand in hand with the National Cohesion and Integration Commission (NCIC) in order to maintain peace in the region during the electoral campaign.<sup>9</sup>

Following this statement, the Nandi *Kaburwo* Council of Elder rebranded itself as a neutral institution. From now onwards, its cultural legitimacy would be put at the service of the national effort for peaceful elections and a renewed political order. Therefore, this code of conduct was supposed to act as a "set of rules of behaviour for political parties and their supporters relating to their participation in an election process, to which the parties ideally will voluntarily agree, and which may be subsequent to the agreement be incorporated in law." Politicians and their campaign teams signed the code as guarantors of citizens' rights and freedoms mentioned in the constitution (I. Art 1; 3).<sup>10</sup> This code also acted as a reminder of a central principle inherited from the separation of powers: candidates must

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8. For additional details, see "Kalenjin Council of Elders replaces Seii as chairman" in *The Star* (Ndanyi 2012): "Sang takes over just two weeks after the council made a controversial decision to back Eldoret North MP William Ruto as Presidential candidate during the recent Kamatusa meeting in Eldoret. [...] Sang said the council had also resolved to restore confidence in the Truth, Justice and Reconciliation Commission following the reinstatement of Ambassador Bethuel Kiplagat as chairman of the truth body."

9. *Ibid.* "Yesterday Sang said they will remain politically neutral and work with all political parties especially their presidential candidates. 'We will recognise and respect all political parties in particular their flag-bearers since the elders council is non-partisan', said Sang soon after he was elected to head the council which is a key community organ in the Kalenjin community. [...] Sang said they have also resolved to work with the NCIC and the provincial administration to ensure that all those seeking elective positions avoid using provocative language during the election campaigns."

10. In order to simplify the references to the various articles from the code of conduct, I will divide the code into three parts: (I) "Preamble and Background" which is the introduction of the code; (II) "Regulations and Commitments"; (III) "Compliance and Enforcement". These parts will be followed by the number of the article(s) I refer to. Therefore, I. Art 1 corresponds to the first article of the first part ("Regulations and Commitments"); II. Art 1 to the first article of the second part ("Compliance and Enforcement"), and so on.

mobilize their own resources in order to campaign and should not request help from the state (I. Art 7).

The main goal here is to define what a “good leader” is and to articulate a new form of leadership around the argument that legitimate and properly held elections will lead to greater democratization. The role assigned by the code to elected representatives within this new leadership illustrates this desire to break with current leadership patterns: a “good leader” is first and foremost defined by negation. Indeed, the code proscribes a number of behaviours that hinder national cohesion: it lists prohibition of hate speeches (I. Art 11; 18), corruption, buying votes with bribes or with fake promises made to voters (I. Art 20), alcohol consumption, bullying techniques (I. Art 27), and violence between supporting parties (I. Art 12; 13; 17; 20). Lastly, it is clearly stated that candidates are not allowed to campaign on election day (I. Art 23; 25). Even though the majority of elected candidates were not to be seen in Nandi Hills on the last day of the campaign, leaving the town in a seemingly calm yet heavy atmosphere, some candidates were still actively campaigning, distributing envelopes filled with money in more secluded parts of the county, as it was the case in Kapkangani.<sup>11</sup>

In addition to redefining what a “good leader” should be during electoral times, the code intends to consolidate the relationship between elected officials and citizens by implementing ethical principles that future local and regional representatives commit to respect from the very beginning of their campaign (and not only during their mandate). According to the code, this relation of trust allows for the development of a sense of responsibility and ethics among the candidates, which will ultimately increase their legitimacy in the eyes of Kenyan citizens as well as of their political opponents. Accepting the results is considered as the *sine qua non* condition to avoid the 2007 elections scenario, when accusations of electoral fraud led to violent clashes throughout the country (Anderson & Lynch, 2013). Furthermore, this code acts as a sort of “political Bible” promoted by elders which aspirants swear allegiance to. All candidates for elections would therefore become the “preachers of the Word”<sup>12</sup> committed to spread largely the precepts stated in the code (II. Art 1), a key element of their campaign (II. Art 2). Infringing on this code is monitored by Kenyan authorities, and first and foremost, by the Independent Electoral and Boundaries Commission (IEBC). Any transgression is punishable by imprisonment (II. Art 3) and by a series of gradually applicable sanctions that the local or regional electoral chiefs will apply to each candidate and her/his party. The infraction of the

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11. I was strolling around Nandi County on the night before elections day and observed the campaign of a candidate vying for MCA in Kapkangani, a small locality of the western border of Nandi County, on the road to Kakamega. This research in North-Western Kenya led to an academic paper on 2013 elections co-written with Dominique Connan (Connan & Josse-Durand, 2017).

12. The 2013 electoral campaign was characterized by numerous teleological political speeches. For more details, see the research conducted by Hervé Maupeu about the pentecostalization of politics in Kenya (Maupeu, 2013).

code also exposes candidates and their supporters to reprisals by the Nandi *Kaburwo* Council of Elders, mandated to “punish” through witchcraft and curses those who dare to go against the common good of the Nandi community.<sup>13</sup> In that sense, this code of conduct is an original initiative, even if it picks up on certain elements of the Electoral Board Code of Conduct published by the IEBC on the notion of “goodwill ambassadors”<sup>14</sup> designated to share messages of peace and unity by the NCIC. Indeed, it is rare to find such regulations implemented by councils of elders in other Kenyan counties.

Why then did the Nandi *Kaburwo* Council of Elders decide to endorse a code of conduct during the 2013 electoral period as a genuine social contract between voters and candidates? The introduction mentioned that this code was written in the name of the Nandi people, described as a rational entity, aware of the opportunities created by the new decentralized administrative system and the impact of past and present political violence on the county. A central and redundant argument in the code is that the economic development of the Nandi region had substantially been slowed down by the 2007–2008 post-election violence, which significantly affected a region then labelled as a “hot-spot” (Thibon, Fouéré, Ndeda & Mwangi, 2014). The tea industry had also slowed down as migrant Luhya, Luo or Kisii workers were fleeing the region, alongside some private investors. Many members of the Council of Elders are investors, holding key positions in the local administration, the media sector and more specifically, in the agri-food industry.

In that sense, *the Nandi Kaburwo* Council of Elders acts as a private circle of the Nandi elite,<sup>15</sup> a closed interest group whose doors open only through a process of co-optation by the peers discussed at monthly or annual meetings. This is confirmed by certain precepts of the code of conduct, which underline purely economic interests. The introduction explicitly mentions that this code is driven by the deontology of specific professional sectors (“healthcare, finance and legal services”), where taxpayers are presented as a distinct faction of the electoral body (“voters and taxpayers”) and where the mission of a “good leader” is to encourage stability and trust in the county’s quality service and ability (“instils confidence in the Nandi County’s professional standards and performance”).

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13. Elders also hold the function of casting spells and curses on the people deemed “bad” by the community. That was the case when a couple managing a tea plantation was killed at home later that year, in August 2013. Elders then organized a ceremony on the location of the crime, casting a deadly curse on the criminals in front of a large crowd. Kenya Citizen TV, “Nandi Elders perform ceremony to curse family’s killers.” Link: <http://youtu.be/ET-5SjiDXmU>.

14. These 25 “goodwill ambassadors” from different professional backgrounds and ethnic origins (military officers, athletes, businessmen, intellectuals and artists) were appointed by the NCIC in July 2012 as part of the *Kenya Kwanza* (“Kenya comes first”) campaign. Even though their role was mostly symbolic (i.e. no legal implications of their assessments), their mission consisted in sharing messages of unity and peace so the March 2013 elections proceed smoothly.

15. Regarding the activities and roles of local elite groups in Kenyan politics and in Nandi Hills in particular, see Connan (2014).

Thus, the Nandi *Kaburwo* Council of Elders does not express itself in the name of a supposedly homogenous<sup>16</sup> Nandi community, but rather as the local elite. My analysis of the arrangements thanks to which a member of the community earns the status of elder reinforced this idea. Interviews I conducted with many elders highlight that they agree on three points<sup>17</sup>: the candidate must be over 55 years old, must have played a structural role in the community, and must be inducted according to a ritualized process.<sup>18</sup> In reality however, such guidelines seem to be more flexible. For example, the Koitalel Samoei museum's curator joined the Nandi *Kaburwo* Council of Elders in 2007 while he was in his late thirties. One of the many descendants of the precolonial freedom-fighter Koitalel Samoei, who works as a respected journalist for the Kass Media Group and is the author of the first biography (excessively romanticized) of his ancestor, was unanimously inducted without respecting the imposed age limit.

Nevertheless, this code has a particular meaning for the Nandi since it echoes a collective belief, also found in daily conversations and brochures, rituals, and speeches of members of the Nandi *Kaburwo* Council of Elders. This belief is based on collective memory put into shape by the museography of the Koitalel Samoei Mausoleum and Museum, where Koitalel Samoei is described as a legendary warrior at the cornerstone of the Nandi's golden age.<sup>19</sup> This golden age supposedly ended more than a century ago with a spell cast by their *Oorgoiyot*, a traditional figure, acting simultaneously as a political, military and spiritual leader, who was ruling over different Nandi sub-groups and their chiefs (Lynch 2012). An oral narrative tells the following story: the community was allegedly cursed following the murder of its then leader, Kimnyolei, on whom the community had turned its backs. Many military chiefs under the protection of Kimnyolei had refused to acknowledge his prophecy meant to prevent the community from hunting or capturing livestock in times of cattle plague (1890s). One day, Nandi warriors found a buffalo's carcass and

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16. Since the Nandi people are, on a national scale, one of Kenya's 44 "Tribes" and usually seen mostly as poorly educated agricultural workers of the tea industry, I would like to introduce a nuance to the term "community" by referring to the literature on collective identity and its rigidity when used for political agendas, and more particularly the extensive work on identity and memory politics in Africa and beyond. See Brubaker (2000); Coombes, Hughes & Karega Munene (2013); Geschiere (2009); and Peterson & Macola (2009).

17. These three points are formalized by the Kalenjin Council of Elders' constitution, which defines the association's status and how it operates. For more details, see article 6 of the constitution untitled "Membership of the Council, life-membership, co-optation and entrance fees."

18. This refers to a ceremony during which a new member is offered a "power stick" (a distinctive sign for a remarkable personality) carved in wild olive tree wood and during which sour milk and grease are applied to the member's hands and feet.

19. In the brochures of the Nandi *Kaburwo* Council of Elders, the Nandi community is regularly presented as the group who dominated the region (i.e. the Highlands) thanks to its military superiority, its highly hierarchized social structure and its unity guaranteed by the *Orkoiyot*, the typical figure of the "good leader," dedicated to its people, omniscient and chosen by the gods.

decided to eat the animal. They all died shortly after. The chiefs then decided to kill Kimnyolei, convinced that he had cast a spell on them, refusing to believe that it was the gods themselves who had chosen to punish them. Omniscient and able to predict the future, Kimnyolei had anticipated their treason and, shortly before succumbing to their attack, had cast a spell on the entire community so that it will never experience harmony again (Anderson, 1993). “He had accursed the Nandi that their leadership will break like a pot.”<sup>20</sup> This curse is thought to still haunt the Nandi and Kipsigis in particular, said to be the descendants of the military chiefs and clans who had disobeyed Kimnyolei’s order and had planned his murder. This oral narrative is often mobilized by the Council of Elders to explain why Nandi and Kipsigis communities had not been granted a “good leader” since Koitalel Samoei, their last *Oorgoiyot*, who waged a war against the British for the possession of the Nandi escarpment in the early 20th century. This collective belief is qualified by Gabrielle Lynch as a “narrative of communal grievances” which, in truth, refers to a will from successive post-colonial elites to marginalize the Nandi community in the national political sphere (Lynch 2011: 128). The grievance can be explained by the rapid turnover of Members of Parliament coming from Nandi and Kipsigis communities in the 1980s, which President Moi encouraged in order to prevent the establishment of an organized opposition in the region which could have challenged his authority (*ibid*: 129). This narrative relates to the strong popular belief that there used to be a transcendental relationship between the *Oorgoiyot* and His community. These marginalization grievances also revolve around the protection he guaranteed Nandi people and their warriors, the success of each military enterprise and superiority over other groups (Masai) and Kalenjin sub-groups (Kipsigis, Tugen, Marakwet, etc.) in the region. This protection was said to be lost when the community turned its back on its leader.

Consequently, whether it is the community that betrayed its leader or the leader who betrayed his people, distrust unites Nandi voters and candidates. Therefore, the injunctions of “peace for development” after the 2007 post-electoral violence and the (mis)use of reinvented traditions played a great role in launching an initiative such as the Nandi Political Code of Conduct ahead of the 2013 general elections. However, this code is only partially respected by those who signed it. On 25 March 2014, almost exactly one year after the first Nandi county’s governor Cleophas Lagat (URP) took office, a protest was organized in Kapsabet to denounce his government for corruption.<sup>21</sup> This code of conduct does not simply tell about the actions of national (IEBC), regional (the NGO CCDD) or local (Nandi *Kaburwo* Council of Elders) actors. It constitutes a remarkable tool for the researcher to apprehend

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20. This story is explained in details in one of the Nandi *Kaburwo* Council of Elders’ brochure, “The Nandi-Talai propiation convention held on 31th December under the auspices of the Nandi *Kaburwo* Council of Elders,” 2012.

21. This event is reported by many Nandi bloggers (like the Nandi County News group on Facebook) or journalists, see *The Star*, 25 March 2014, “Nandi police stops demo by civil groups” (Salil 2014).

the political aspirations of a community and its elite whose unity in marginality is undergirded by stories and imaginaries drawing from a collective memory in perpetual reconstruction. Due to the cultural, social and political dynamics which this code of conduct brings to light, and given the importance it has had in my research, I believe it is crucial to publish it as a primary source that illustrates the complex articulation of national reconciliation policies and the aspirations of a local elite with their own conception of leadership for addressing issues linked to general elections. More broadly, through this original document, one can question the role played by councils of elders in Kenyan politics from a grassroots perspective, as well as the role they play in “re-writing” Kalenjin history and reshaping Nandi identity under the guise of preserving traditions and promoting cultural heritage.<sup>22</sup>

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22. See the work I published afterwards: Josse-Durand (2016; 2018).

## The Nandi Community Political Code of Conduct: Facsimile and Transcript

### 1. Facsimile

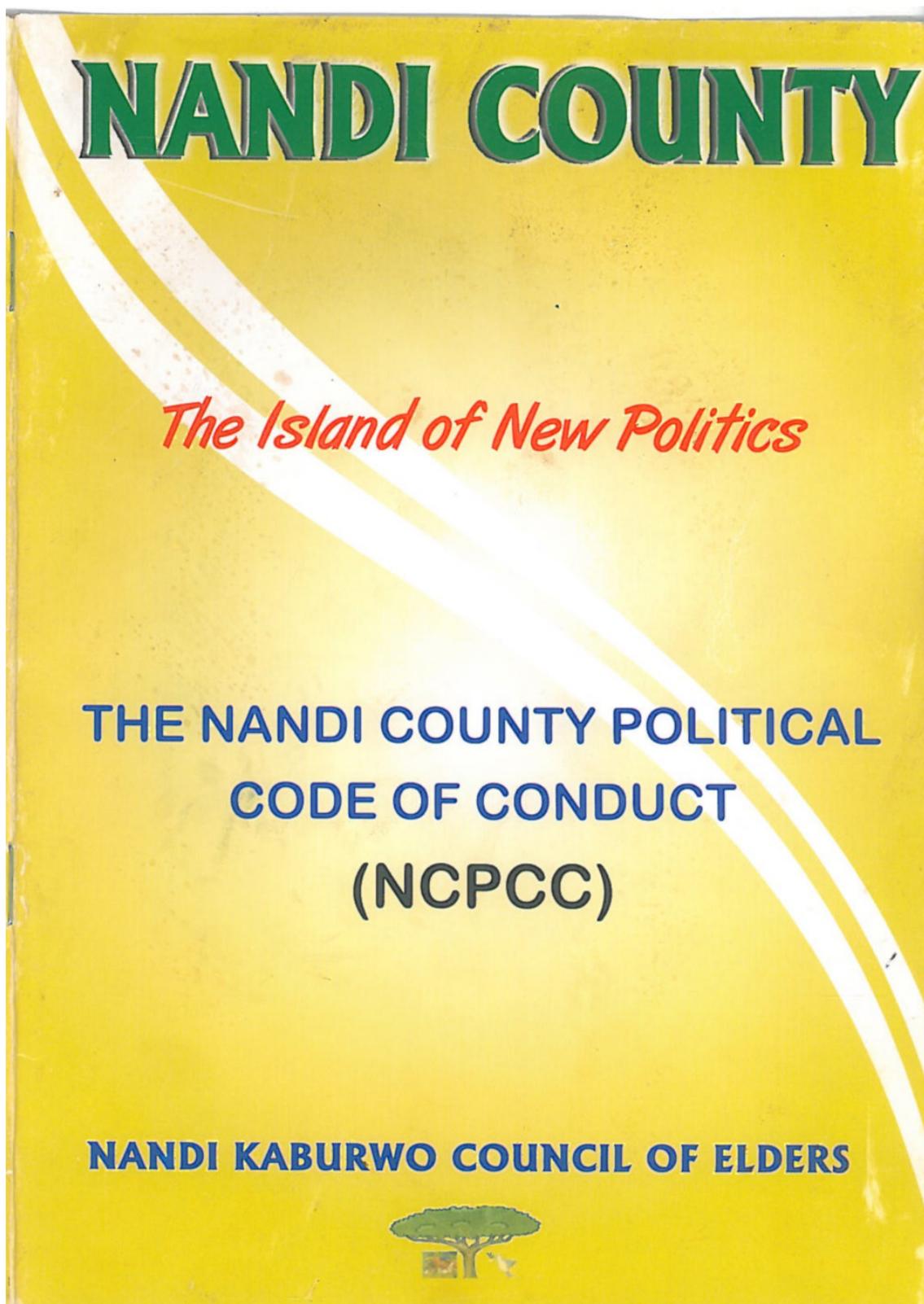
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## **Nandi County** **The Political Code of Conduct**

A political Code of conduct to govern and regulate all political activities within Nandi County.

### **PREAMBLE**

**WE THE PEOPLE OF NANDI COUNTY:**

**REALISING** the opportunities presented to us by devolved system of governance;

**AWARE** of the past and current political challenges;

**IN COMPLIANCE** with the constitution of Kenya and all other relevant Laws and regulations

**APPRECIATING** our unique challenges as a county;

**DETERMINED** to establish our county on a strong foundation;

**CONSIDERING** the impact of politics on the overall development of our society;

**COMMITTED** to adopt a culture of issue-oriented politics;

**RECOGNISING** the role of God towards achievement of our shared vision;

**DO HEREBY** give unto ourselves this Political Code of Conduct and undertake to jealously safeguard it.

**1 | NCPCC**

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## **1. Background**

Many professions especially in the fields of healthcare, finance and legal services have codes of conduct for their members. Voters and taxpayers who elect politicians to office and pay their salaries should be able to feel confident that their elected officials will exercise fiduciary and moral responsibility while serving their counties. The power the politicians wield with its Machiavellian potential for corruption, and abuse demands that they be held to an even higher standard political code of conduct. The elected leaders therefore should be people of unquestionable backgrounds who can be relied to spearhead strategic decisions affecting the counties.

In 2007 Kenya was on fire as the civil war threatened to bring the country on its knees. The post-election violence as it's famously referred to, was caused by a disputed electoral results in the country's general election. The Kriegler commission identified various aspects of electoral systems that required attention. These electoral malpractices make it impossible to have a free and fair election, which is a cardinal principle of democracy. Some of the malpractice that needs to be addressed includes hate speech, voter bribery, intimidation, campaign violence, discrimination, negative ethnicity etc.

A written political code of conduct provides clear ethical guidelines for everyone in the political arena. A formal code also serves to let aspiring candidates know that the county residents have high expectations of its leaders and instills confidence in the Nandi County's professional standards and performance. A political code of conduct is one way of committing the leadership of the county to free and fair elections and the respect to the rule of law. Failure to comply with the code can often result in the disciplinary action.

## **2 | NCPCC**

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For a long time the government in power has been using state resources to intimidate voters and scare opposition figures keen to bring change in the governance of the country. These systematic controls of state resources including the police have had devastating governance problems witnessed today which can be attributed to our independence constitution. With the coming to force the new constitution which has far reaching institutional reforms in the running of the government with wider public participation in the governance processes, there is significant need for promoting citizen participation in election of leaders who will occupy both county and national level leadership positions in order to make devolution of power a reality.

### **Regulations and Commitments**

1. All Party Leaders and Political Aspirants shall append their signatures on a copy of this Code as a sign of their commitment to protect and abide by it.
2. All political aspirants shall abide by all the laws, rules and regulations of Kenya relating to elections and the maintenance of public order.
3. All Political Parties and political aspirants shall at all times uphold the rights and freedoms of the Nandi people as guaranteed by law.
4. All Political Parties and political Aspirants shall have the right and freedom to put forward their views to the electorate without any hindrance subject to the relevant laws and regulations.
5. All Political Parties and political Aspirants shall fully cooperate with the Police in any investigation and processes of enforcement of the relevant laws, rules and regulations.
6. No Political Party and/or political Aspirant shall use state apparatus including state owned print and electronic

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media to the advantage or disadvantage of any other candidate for purposes of an election.

7. All Political Parties and/or political Aspirants shall desist from the use of state vehicles, or other public resources for any electioneering campaigns or any other party business.
8. All Political Parties and/or political Aspirants shall not engage in acts of violence or intimidation of any kind, as a way of demonstrating its strength or supremacy.
9. All Political Parties and/or political Aspirants shall accordingly publicly condemn any form of political violence or intimidation.
10. All Political Parties and/or political Aspirants shall desist from the use of any defamatory, derogatory and insulting attacks on rival individual personalities through any form of communication, verbal or written.
11. All Political Parties and/or political Aspirants shall take all necessary steps to coordinate their campaign activities in such a way as to avoid holding rallies, meetings, marches or demonstrations close to one another at the same time.
12. All Political Parties and/or political Aspirants shall ensure that any clash on the date, venue or timing is resolved amicably by themselves or through their appointed representatives.
13. All Political Parties and/or political Aspirants shall desist from any acts that may lead to breach of peace or Public Order.
14. All Political Parties and/or political Aspirants shall where necessary in the public interest; notify the police and other relevant authorities of their public rallies and meetings in any particular area.
15. All Political Parties and/or political Aspirants shall desist from any act that may disrupt the activities of another Political Party or Aspirant.

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16. All Political Parties and/or political Aspirants shall take charge of the activities of its supporters and advise them accordingly.
  17. All Political Parties and/or political Aspirants shall instruct their supporters that no arms or any object that can be used to cause injury shall be brought to a political rally, meeting, march, demonstration or any other political function.
  18. All Political Parties and/or political Aspirants shall respect and promote affirmative action and shall endeavor to accord a favorable campaign platform to women, people with disabilities and minorities.
  19. All Political Parties and/or political Aspirants shall avoid any discrimination based on tribe, sex, marital status, healthy status, ethnic or social origin, color, age, disability, religion, conscience, belief culture, dress, language or birth in connection with election and political activity.
  20. All Political Parties and/or political Aspirants shall not knowingly give false promises to the electorate of Nandi County with a view of winning votes.
  21. All Political Parties and/or political Aspirants shall at all times cooperate fully with election officials in the performance of their lawful duties, in order to ensure peaceful and orderly elections.
  22. All Political Parties and/or political Aspirants shall conduct themselves in a peaceful manner during voting and instruct their respective supporters to do so.
  23. All Political Parties and/or political Aspirants shall instruct its supporters that no weapon or any object that can be used to cause injury shall be brought to the polling station, and that no party attire, colors symbol, emblem or other insignia shall be worn to polling station on Election Day.

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24. All Political Parties and/or political Aspirants shall extend all necessary help and cooperation to law-enforcement agents for purposes of censuring the safety and security of election officials and party agents on polling day.
  25. All Political Parties and/or political Aspirants shall instruct their agents in attendance at polling stations to perform their duties in accordance with the electoral laws and regulations, and to cooperate fully with the election officials for the efficient, transparent and uninterrupted conduct of the elections.
  26. All Political Parties and/or political Aspirants undertake to accept the results of elections conducted in a free, fair and peaceful environment and if aggrieved will seek legal redress and not resorting to violence.
  27. All Political Parties and/or political Aspirants shall not engage in any act of voter bribery or intimidation.
  28. All Political Parties and/or political Aspirants shall not engage in any form of electoral malpractice as provided for under the relevant laws of Kenya.
  29. The reference to Political Parties and/or political Aspirants in this Code shall where applicable refer to their supporters too.
  30. The Political Parties and/or political Aspirants shall primarily be liable for the acts of its supporters.

### **3. Compliance and Enforcement**

1. Registered parties and candidates bound by the Code are expected to promote the goal of the Code, publicize the Code.
2. All Political Parties and Political Aspirants are expected to comply with this Code, to instruct candidates, office bearers and agents and members and supporters to comply with it, and with electoral laws, and to take steps

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to ensure that all so instructed comply with it. Candidates shall have joint conventions to campaign.

3. Contravention of the Code is an offence and a person convicted is liable to a fine or to imprisonment for a term determined by the Kenyan Elections Act and other Relevant Laws.
4. There shall be a public monitoring and enforcement committee comprising of nominees from the Political Parties and other stakeholders to oversee compliance with the Code.
5. The public monitoring and enforcement committee shall make appropriate recommendations to the Chief Electoral Officer for further action.
6. The chief electoral officer may institute proceedings in court against offenders to enforce compliance and the courts have a range of sanctions at their disposal. The Courts may ;
  - Impose a formal warning.
  - Shame the candidates.
  - Impose the forfeiture of candidate deposits.
  - Prohibit or limit the use any public media, the holding of public events, entering any voting district to campaign, the display billboards, placards or posters, the publication or distribution of campaign literature or the receiving funds from the State or foreign sources.
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  - Suspend the candidate from campaigning for a period of one to two months
  - Cancel the number of votes cast in favor of a person or party.
  - Disqualify candidates.
  - Recommend to registrar of political parties the cancellation or de- registration of a party.

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### Conclusions

The purpose of this code of conduct is to consolidate the relationship between citizens and policy-makers by setting out, at county level, ethical principles approved by the elected representatives. Stressing that elected representatives carry out their duties within the framework of the law and in accordance with the mandate given to them by the electorate and that they are accountable to the whole of the county population, including those electors who did not vote for them. Considering also that respect for the electorate's mandate goes hand in hand with respect for ethical standards and deeply concerned by the increase in the number of judicial scandals involving political representatives who have committed offences while in office and noting that local and regional elected representatives are not above such offences and convinced that the promotion of codes of conduct for elected representatives will allow trust to be built up between local and regional politicians and citizens.

We the undersigned representatives of the political parties hereby collectively subscribe to this code of conduct.

Name..... Post.....

Polling Station..... Date.....

**Definition:** Code of conduct means *'a set of rules of behavior for political parties and their supporters relating to their participation in an election process, to which the parties ideally will voluntarily agree; and which may subsequent to the agreement be incorporated in law.'*



## 2. Transcript

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