

THE PREAMBLE TO

**THE CONSTITUTION OF THE KHOJA SHIA
ITHNA-ASHERI JAMAAT. DAR ES SALAAM**

BISMI-L LAHI-R RAHMANI-R RAHEEM.

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The contents of this set of documents shall collectively be known as the 'Constitution of the Khoja Shia Ithna-Asheri Jamaat, Dar es Salaam.

This Constitution shall come into effect on the ____ day of ____ 1990 in place of the existing one, adopted on the 04th of September, 1937, according to which, for the past 53 year, our Jamaat has been functioning.

Therefore, working on the old Constitution, bearing in mind the changes between the Thirties, Nineties and Tomorrows, and taking due notes of the rights, duties and priviledges of Members, Board of Trustees and Managing Committee, a new Constitution was drafted and presented to the members for deliberations and adoption.

Al-hamdu lil-lah, these having been successfully accomplished, the Managing Committee has the honour and pleasure of presenting you, our esteemed Members with the revised Constitution of the Khoja Shia Ithna-Asheri Jamaat, Dar es Salaam.

Wa S-salamun Alaykum wa Rahmatu L-Iahi Wa Barakatuh.

ALIRAZA RAJANI _____
The President

H.R. JAFFER _____
The Secretary

The Khoja Shia Ithna-Asheri Jamaat
DAR ES SALAAM.

Friday 4th May 1990
9th Shawall 1410

1

BISMIHI TA-ALA

AMENDED CONSTITUTION OF THE KHOJA
SHIA ITHNA-ASHERI JAMAAT, DAR ES
SALAAM

1. TITLE:

It is hereby established an association of the Ithna-Asheries of Dar es Salaam to be named and styled as "The Khoja Shia Ithna-Asheri Jamaat, Dar es Salaam" (hereinafter referred to as "The Jamaat").

2. REGISTERED OFFICE:

The Registered Office of the Jamaat shall be situated in Dar es Salaam, Tanzania.

3. AIMS AND OBJECTS:

The Aims and Objects of the Jamaat shall be in accordance with the tenets, doctrines and shariah of Shia Ithna-Asheri Sect of Islam. These shall be:

- I a) To promote the Jamaat in religious, economical, social, educational and health spheres.
- b) To Create, Cultivate and maintain goodwill amongst all its members.
- c) To settle differences and disputes of any nature in the Jamaat or between two or more members of the Jamaat.
- d) To encourage unity and mutual understanding within the Jamaat and between the Jamaats and other communities of different races and creeds
- e) To propagate and defend Shia Ithna-Asheri faith.

- f) To establish and to maintain mosques and other religious institutions.
- g) To own properties and to have investments in furtherance of the said Aims and Objects.
- h) To do all such other lawful acts as are incidental to or conducive to the attainment of any of the above mentioned Aims and Objects.

ii. Provided that for the purposes of attaining the Aims and Objects aforesaid, the income of the Jamaat shall be utilized primarily for the benefit of the Shia Ithna-Asheries resident in Dar es Salaam.

iii. To fulfil these aims and objects, Jamaat may raise funds by various means.

iv. Further provided that the Jamaat may offer its services and utilize its income derived by way of fees or special donations for the purpose of attaining clause 3 (i) of the Aims and Objects.

4. MEMBERSHIP:

I) Any male person of the Shia Ithna-Asheri Faith of Khoja origin over the age of 18 years and who is a resident of Dares Salaam shall be eligible to become a member of the Jamaat.

II) Every application for membership shall be in writing and shall be submitted by the applicant to the Honorary General Secretary together with the first subscription.

III) Every member of the Jamaat shall abide by the Constitution and By-laws of the Jamaat in force at that time.

IV) Any new resident of Dar es Salaam who

qualifies for membership on changing his place of residence shall be eligible to become a member on transfer from any other Jamaat by producing certificate or letter of clearance in addition to fulfilling the conditions of clause 4 (ii).

5. SUBSCRIPTION:

I) The subscription payable by each member shall be as determined from time to time by the Jamaat at its General Meeting.

II) The Managing Committee shall have the right to exempt any member from payment of the annual subscription on the grounds of the applicant's inability to pay such subscription.

III) The subscription shall be due on 1st January in each year and shall be payable latest by 31st March each year.

6. RIGHT AND BENEFITS OF REGISTERED MEMBERS:

I) All registered members shall have the right to speak at any General Meeting of the Jamaat on all matters on agenda and shall be eligible for election as trustees, (subject to their complying with the condition laid down in rule no. 26 (III)), office bearers and members of the Managing Committee or sub-committee (s) of the Jamaat, and shall have the right to vote at such meetings subject, however, to rules 10 (I).

II) A registered member may get at the convenience of the Managing Committee on social (which shall not be against the Shariah) and on religious occasions, furniture, crockeries, utensils, etc. in accordance with the terms and conditions as set by the Managing Committee and on payment of a prescribed fee, if any. The Managing Committee at its discretion may allow or refuse the use of such convenience.

III) Any member who is in arrears of his subscription for twelve months or over shall not be entitled to the services rendered by the Jamaat with the exception of those which are to be offered obligatorily.

7. TERMINATION OF MEMBERSHIP:

I) Any member desiring to resign from the membership of the Jamaat shall submit his resignation in writing to the Hon. General Secretary.

II) If any member renounces the Shia Ithna-Asheri faith, he shall cease to be a member of the Jamaat from the date of his renunciation.

8. GENERAL MEETING:

I) An Annual General Meeting shall be held every year not later than 31st March for the purpose of transacting the following:

a) To confirm minutes of previous General Meeting (s) (which hitherto have not been confirmed).

b) To receive and to adopt audited accounts of the Jamaat for the preceding year.

c) To receive and to adopt audited accounts of the Board of Trustees for the preceding year.

d) To receive and adopt accounts of the affiliated and other sub-sections.

e) To appoint an Auditor for ensuing year.

f) To discuss another business introduced by the Managing Committee.

II) An Election Meeting shall be held once every two years to coincide with the Annual General

Meeting as prescribed in para (I) above. In addition to the requirements of para (I) (a) - (f) such election meeting shall also receive and shall adopt the report of the Managing Committee and that of the Board of Trustees covering the period of its preceding term, and shall elect members of the Managing Committee; and those of the Board of Trustees.

III) The Jamaat shall meet at such other times as the Managing Committee may decide and such meetings shall be known as "Special General Meetings" .

IV) It shall be incumbent upon the Managing committee to convene a Special General Meeting of the Jamaat with in four weeks of receipt of a requisition notice signed by not less than 25% of the members of the Jamaat.

V) In the event of the Hon General Secretary or the Managing Committee neglecting to call a Special General Meeting within four weeks of the receipt of the requisition as stated in (IV) above, these members shall themselves circulate a seven-day notice among the members of the Jamaat and shall convene the Meeting themselves stating the objects, the place and the time of such a meeting.

VI) The President, whom failing the Vice President, whom failing, a chairman to. be appointed by a majority of the members present, shall preside at a General Meeting of the Jamaat and his rulings shall be final upon points of order and matters of procedure. The Chairman shall have a deliberative as well as a casting vote.

9. NOTICE OF GENERAL MEETINGS:

I) At least 14 days' notice shall be given in respect of all General Meetings provided that in the case of Special General Meetings 7 - days' notice shall be given.

II) Notices of all General Meetings shall be deemed to have been properly given if such notices are displayed on the Jamaat's Notice Board.

III) All documents as reports, accounts and resolutions to be presented by the Managing Committee or the Board of Trustees to the members at any meeting of the Jamaat, shall be made available to the members from a designated place at least 3 days before the date of such a meeting.

10. VOTING AT GENERAL MEETINGS:

I) No member shall be entitled either to participation or to vote at any general meeting of the Jamaat or its committees if he shall be in arrears of this subscription whether demanded or not.

II) All voting shall be by a show of hands or by ballot as determined by the Chairman. .

III) A resolution of a General Meeting shall be cancelled, rescinded or withdrawn within six months of the passing of such a resolution unless special grounds are submitted to the Managing Committee which shall decide by a three fourths majority whether the matter should be taken to the General Meeting for its reconsideration.

11. QUORUM AT GENERAL MEETINGS:

I) Save and except as provided in clause 35, quorum at all General Meetings shall be 100 members or 25% of the members (whichever is less), provided that in the case of a meeting called by a requisition of the members under Clause 8 (IV) the quorum shall be 25% of the members.

II) If within 15 minutes of the time appointed for any General Meeting a quorum is not present the

meeting shall stand adjourned to a time and place to be appointed by the Chairman. Provided that if called under Clause 8 (IV) the meeting shall stand dissolved.

III) Any number of members present at such a reconvened meeting shall constitute a quorum.

12. MANAGING COMMITTEE :

I) The affairs of the Jamaat shall be managed by a Managing Committee which shall consist of the following 14 members of whom the first five will be office bearers of the Jamaat;

- a) President
- b) Vice President
- c) Hon. General Secretary
- d) Hon. Joint General Secretary e) Hon. Treasurer
- f) Nine Committee Members

II) The office - bearers and seven members of this Managing Committee shall be elected at the Election Meeting and two members shall be appointed by the Managing Committee.

III) No member shall be entitled to be elected or nominated as a member of the Managing Committee of the Jamaat unless he shall have become a member twelve months prior to the election and is not in arrears of subscription.

13. TERM OF OFFICE OF THE MANAGING COMMITTEE:

The term of office of the Managing Committee shall be for a period of two years.

14. TENURE OF OFFICE OF THE MANAGING COMMITTEE:

I) Members of the Managing Committee shall hold office until the next election meeting.

II) Members of the Managing committee shall be eligible for re-election, EXCEPT that a person who has served three consecutive terms as "The President" shall not qualify for the fourth term, but may be elected after a lapse of at least one term.

III) A member of the Managing Committee shall vacate his seat:-

- a) If he ceases to be a Shia Ithna-Asheri;
- b) If he resigns;
- c). If he is certified or otherwise judged to be of unsound mind or insane;
- d) If he ceases to reside in Dar es Salaam;
- e) If he fails without good and sufficient cause to attend four consecutive meetings of the Managing Committee.

15.METHOD OF ELECTION OF THE MANAGING COMMITTEE:

Members of the Managing Committee shall be elected at the Election Meeting by ballot if there are more than one candidate for any post.

16.POWERS AND FUNCTIONS OF THE MANAGING COMMITTEE:

I) The Managing Committee shall have the power to appoint and dissolve Sub-Committees and to assign to them powers and duties as may be deemed necessary. The Sub-Committees shall abide by rules of procedures as defined by the Managing Committee from time to time. The President and Hon. General Secretary shall always be ex-officio members of Sub-Committees appointed by the Managing Committees.

II) The Managing Committee shall have the power to make, repeal and amend rules, regulations and by-laws which may be found necessary for the furtherance of the Aims and Objects of the Jamaat and the management of the affairs of the Jamaat.

III)The Managing Committee shall have the power to create, receive and raise funds and through the Board of Trustees to invest such funds to buy, build or own properties.

IV)The Managing Committee, through the Board of Trustees, shall have the power to sell properties belonging to the Jamaat, provided prior approval is obtained from the General Meeting.

V) The Managing Committee shall have the power to incur expenses for the purpose of the Management of the Jamaat and for carrying out its activities.

VI)The Managing Committee shall have the power to fill any vacancy occurring among its members except that in the event of the office of the President becoming vacant, the Vice President shall assume the office of the President for the remaining period Office

VII) The Managing Committee shall have the power to nominate two members' to the Managing Committee.

17.MEETINGS OF THE MANAGING COMMITTEE:

I) The first meeting of the newly elected Managing Committee shall be held within two weeks of the Election Meeting jointly with the retiring members of the Managing Committee for the purpose of adopting any minutes of the previous meetings of the Managing Committee and proper handing over of the affairs of the Jamaat.

II) The Meetings of the Managing Committee shall be convened at the behest of the President by the Hon. General Secretary or in his absence by Hon. Joint General Secretary at least once every month.

III)Within seven days of the receipt of a requisition in writing signed at least by two thirds of the members of the Managing Committee, the Hon.

General Secretary or in his absence the Hon. Joint General Secretary shall call a special meeting of the Managing Committee for the deliberation of the matters specified therein, failing which these members may call such a meeting.

IV) Seven days notice shall be given in respect of each Meeting of the Managing Committee. A shorter notice may be given when it is deemed necessary.

V) No meeting shall be deemed irregular by reason only of non-receipt of a notice by any member of the Managing Committee.

VI) If any member of the Managing Committee remains absent from its three consecutive meetings without any specific reason (s) he shall be notified of the fact in writing by the Hon. General Secretary before calling the fourth meeting. If the member, in spite of such notice and without a valid excuse remains absent from the fourth meeting, then he shall be considered to have automatically ceased to be member of the Managing Committee.

18 QUORUM AT MEETINGS OF THE MANAGING COMMITTEE:

I) Quorum at all Meetings of the Managing Committee shall be 50% provided the President or the Vice President or the General Secretary is present during the whole of such meeting.

II) If within 15 minutes of the time appointed for a Meeting of the Managing Committee a quorum is not present, the meeting, if called under Clause 17 (III) shall stand dissolved. In any other case it shall stand adjourned to a time and place to be appointed by the Chairman.

III) Any number of members present at such an adjourned meeting shall constitute a quorum with the same proviso as in 18 (I).

19. DUTIES OF THE PRESIDENT:

I) The President shall hold the highest office of the Jamaat, and due respect, honour and privilege shall be given to him as such:

II) THE PRESIDENT SHALL:

- a) Be the executive head of the Jamaat.
- b) Preside over all meetings of the Jamaat and the Managing Committee. In his absence the Vice President shall take the Chair, and if he too is absent, members present shall elect their own Chairman.
- c) In the event of the tie in any division called for at a meeting, the President shall have a casting as well as a deliberative vote.
- d) Have the right to supersede any decisions of the Managing Committee members where a clear decision cannot be made.
- e) Appoint heads of Sub-Committees, to be known as Secretary of the Sub-Committee.
- f) Appoint to the Managing Committee up to a maximum of two members, at any given time, in the event of vacancies occurring therein.
- g) Have the right to incur expenditures on behalf of the Jamaat, which he shall report to the Managing Committee at its subsequent meeting.
- h) Represent the Jamaat or appoint any person to do so at any Public Function.
- i) Make Public announcements or statements whenever necessary or appoint someone to do so.

20. DUTIES OF THE VICE PRESIDENT:

The Vice President shall assist the President and shall assume the powers of the President in the latter's absence.

21. DUTIES OF THE HON. GENERAL SECRETARY AND HON. JOINT GENERAL SECRETARY:

The Hon. General Secretary and Hon. Joint General Secretary shall execute all decisions of the Managing Committee and shall also:

Be responsible for the smooth functioning of the Secretariat and the Jamaat's staff.

II) Be responsible for giving Notices of all Meetings.

III) In consultation with the President prepare and issue notices and agenda of all meetings.

IV) Record and maintain proper minutes of all the proceedings of the meetings.

V) In consultation with the President deal with all matters that come before the Secretariat.

VI) Co-ordinate the activities of all Sub-Committees.

22. DUTIES OF THE HONORARY TREASURER:

I) All monies, cheques, bills of exchange and funds of and due to the Jamaat shall be received by and paid to the Hon. Treasurer of the Jamaat who shall deposit all monies immediately in the name of the Jamaat in any bank or banks approved by the Managing Committee. Such banking accounts shall be operated jointly by President, Hon. General Secretary and Honorary Treasurer. Provided, however, in the absence of the President the Vice President shall be one of the joint operators.

II) The Hon. Treasurer shall be responsible for the

safe custody of Jamaat's monies and valuables.

III) The Hon. Treasurer shall maintain a true and proper accounting records of the Jamaat and of the Board of Trustees and shall submit them to the Managing Committee every six months.

IV) The Treasurer shall not make payments of any accounts, bills or vouchers, without first getting them certified and authorised by the President or by Hon. General Secretary.

V) The Hon. Treasurer shall draw up a Balance Sheet and Income and Expenditure Account and shall get the same audited. Such audited Balance Sheet and Income & Expenditure Accounts shall be presented to the Jamaat at least 3 days before the date of the Annual General Meeting.

VI) The Hon. Treasurer shall keep a proper register of members giving the date of admission and payments of subscriptions.

23. SUB-COMMITTEES:

I) The Managing Committee shall have power to appoint and dissolve Sub-Committees as and when required.

11) The Managing Committee shall draw up by-laws and/ or give guidelines which will govern the activities of the Sub-committee.

III) A Sub-Committee shall deal with only matters connected with its respective affairs entrusted to it by the Managing Committee.

IV) The Secretary of each Sub-Committee shall be appointed by the President and preferably be a member of the Managing Committee.

V) Members of the Sub-committee shall be recommended to the Managing Committee for its final decision.

VI) A Sub-Committee shall not incur any expenditure without prior approval of the Managing Committee.

VII) The term of office of all Sub-Committees shall end with that of the Managing Committee, but unless dissolved as per clause 23 (I), members of the Sub-Committees shall be required to remain in office until new appointments are made by the succeeding Managing Committee.

24. APPOINTMENT OF AUDITORS:

I) All the accounts of the Jamaat and of the Board of Trustees shall be audited by authorised Auditors.

1)ie Auditors shall be appointed at an Annual General Meeting of the Jamaat.

III) Only a citizen of Tanzania who is a resident of Dar es Salaam shall be eligible for appointment as an Auditor.

IV) INTERNAL AUDITOR: An Internal Auditor shall be appointed by the Managing Committee and shall be a person other than the Auditor appointed per clause 24 (I).

V) A member of the Managing Committee or a member of the Board of Trustees shall not be eligible for appointment as an Auditor.

25. BOARD OF TRUSTEES:

I) A Board of Trustees shall be incorporated under the Trustees Incorporation Ordinance or any amendments thereof or replacement thereof with the title "*The Registered Trustees of the Khoja Shia Ithna-Asheri Jamaat of Dar es Salaam*"

II) The properties of the Jamaat shall be vested in six Trustees (hereinafter referred to as the Board of Trustees).

iii) Only a citizen of Tanzania shall be eligible for the post of Trusteeship.

IV) No member of the Jamaat shall be eligible for election as a Trustee unless he has been a member of the Jamaat for at least twelve months and is a resident of Dar es Salaam.

V) The Board of Trustees shall always be six in number whereof the President or the Vice President and the Hon. Treasurer of the Jamaat shall be ex-officio members. The remaining four shall be elected by the Jamaat in a General Meeting.

26. TERM OF OFFICE OF THE BOARD OF TRUSTEES:

The term of office of the Board of Trustees shall be for a period of two years.

27. TENURE OF OFFICE OF THE BOARD OF TRUSTEES:

I) Members of the Board of Trustees shall hold office until the next election meeting.

.II) Members of the Board of Trustees shall be eligible for re-election.

III) A member of the Board of Trustees shall vacate his seat:

- a) If he ceases to be a Shia Ithna-Asheri;
- b) If he resigns;
- c) If he is certified or otherwise adjudged to be of unsound mind or insane;
- d) If he ceases to reside in Dar es Salaam
- e) If he changes his nationality;
- f) If he fails without good and sufficient cause to attend four consecutive Board Meetings;
- g) If he is adjudged bankrupt.

28. DUTIES OF THE BOARD OF TRUSTEES:

I) All the immovable properties bequested to, or built or purchased by the Jamaat, shall be held and managed by the Board of Trustees for and on behalf of the Jamaat.

II) The Board of Trustees may sue and be sued in the Corporate name.

III) The Board of Trustees shall have no right by virtue of their office to interfere in the holding of any of the Jamaat's meetings, religious and social ceremonies held in any of the Jamaat's building or premises which may be used for such purposes.

IV) The Trustees shall superintend and manage the immovable properties in accordance with the express terms mentioned in the wakf or Trust Deeds or as directed by the Managing Committee.

V) The Board of Trustees shall lease, collect rent, repair and maintain in good state all the properties of the Jamaat.

VI) The Board of Trustees shall have no power to dispose of either by sale, exchange or transfer any immovable property belonging to the Jamaat without prior approval of the Managing Committee.

VII) The Board of Trustees shall have no power to erect extend or purchase any immovable property without prior approval of the Managing Committee.

VIII) All incomes such as rent, etc. derived from such properties shall be collected regularly by the Board of Trustees and shall be paid to the Hon. Treasurer of the Jamaat who shall issue receipt against each amount received.

IX) The Board of Trustees may retain up to a certain amount determined by the Managing Committee of all incomes collected for the purpose

of meeting expenses related to the repairs and maintenance of the Jamaat's properties including administrative and management charges, government taxes, insurance, etc.

X) The Board of Trustees shall elect from among themselves a Secretary who shall keep proper records of all Minutes of the Meetings and all records of the properties under their trust.

29. MEETINGS OF THE BOARD OF TRUSTEES:

I) Any four trustees present provided it includes the presence of an ex-officio Trustee shall form a quorum for a meeting of the Board of Trustees.

II) The President or the Vice President of the Jamaat shall be the Chairman of the Board of Trustees and he shall preside over all its meetings. In his absence the Hon. Treasurer of the Jamaat shall be presiding Chairman of all meetings of the Board of Trustees.

30. SEAL OF THE BOARD OF TRUSTEES:

I) The Seal of the Board of Trustees shall be "The Registered Trustees of the Khoja Shia Ithna-Asheri Jamaat – Dar es Salaam".

II) The Seal shall always be kept in safe custody of the Hon. Treasurer.

III) The Seal shall be affixed in the presence of the Chairman of the Board of Trustees and any other two Trustees.

31. INFORMATION AND STATEMENTS:

I) The President or his appointee shall have the power to make public statements and to furnish information on behalf of the Jamaat.

II) The Hon. General Secretary or his appointee shall make announcement concerning all religious

and social functions.

32. INDEMNITY:

If any prosecution, action or suit at law be commenced against any of the members of the Managing Committee or Board of Trustees for anything done by him in proper and reasonable discharge of his duty, such a member shall be defended and indemnified by and at the cost of the Jamaat from all damages, costs and expenses which may be incidental to or result from such prosecution, action or suit at law.

33. AFFILIATED BODIES:

I) Any Association of Khoja Shia Ithna-Asheries may apply to the Jamaat through the Managing Committee for affiliation, provided such association does not have identical aims and objects as stipulated herein or as stipulated in the Constitution of an already existing affiliated body.

II) Every application for affiliation shall be made in writing and shall be accompanied by the following:

- a) a copy of the applicant's Constitution, Rules and By-Laws;
- b) names and full details of its Committee Members;
- c) a copy of its last audited accounts; and
- d) such further or other information as the Managing Committee may require.

III) The Managing Committee may accept an application for affiliation subject to such terms and conditions as it may deem appropriate and upon its satisfaction such an application shall be referred to the General Body of the Jamaat for its final decision

IV) Rejected applicants can only re-apply after 3 months.

V) The affiliated body shall be entitled to such amenities and privileges as the Managing Committee may from time to time determine.

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VI) If the Managing Committee feels that action of the affiliated body is detrimental to the welfare or well being of the Jamaat or such action contravenes the tenets, doctrines and Sheriah of Shia Ithna-Asheri Mazhab, it shall be empowered to suspend the affiliation pending decision of the General body.

34. AMENDMENT:

This Constitution can be amended, changed, repealed, replaced, wholly or in part, and added to it, Provided that:

a) Notice of such a meeting must be given to all registered members of the Jamaat at least 21 days in advance of the meeting. Such a notice shall be deemed to have been properly given if displayed on the Jamaat Notice Board.

b) The section of the Constitution that is to be amended, changed, repealed, or replaced must be quoted in such a notice.

c) The quorum, in order to conduct such a meeting shall be at least 50% of the registered members of the Jamaat. At this meeting if a quorum is not present within 15 minutes of the time appointed, the meeting shall stand adjourned to a time and place to be appointed by the Chairman.

d) A re-convened meeting referred to in above (c) above shall have a quorum of at least 10% of the registered members of the Jamaat or 120 such members whichever is less.

e) For the motion to be carried through, it must have the support of at least 50% of the registered members of the Jamaat. However, in the event of number of members present at the meeting being less than 50% of the registered members, voting by

proxy will be allowed at a meeting to be held a week after the meeting referred to in (a) to (d).

35. MISCELLANEOUS:

No member as individual, Institution, Association, Firm or Company shall use as its designation the word "Ithna-AsheriJamaat" or similar terminology if it gives implication that it has something to do with the Jamaat, without prior written consent of the Managing Committee.

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OPERATIVE DATE:

This constitution shall become operational immediately after the term of the Managing Committee of 1988 -1989 comes to an end and immediately before the election of the subsequent Managing Committee.