

**Submitted to  
The Parliamentary Committee on Legal and Constitutional Affairs**

**Submitted on June 22, 2019**

Honorable Chair and distinguished members of this Committee

We have honored your kind invitation to contribute to the review of these important Miscellaneous Amendments (as received) by submitting our written analysis on the proposed amendments.

We welcome the movement towards greater transparency, accountability and participation in the work of various types of civic organisations and the view towards greater efficiency and effectiveness in the coordination of these entities.

We commend a number of important changes brought by each of these laws while providing critical and constructive inputs to improve on other changes.

The combined amendments make significant changes to the entire structure of a sector and a fundamental part of our society. It is imperative that we ensure that we think collectively and carefully about the possible outcomes and consequences of these amendments before enacting them urgently.

Consultation enables engaging more minds and varying perspectives to the question, ensuring we explore many possibilities and come up with the best solutions. It can minimise the unforeseen outcomes, help sensitize stakeholders to decisions and lead to smoother implementation. However, we seriously note that, offering organisations two days to analyse a law and organise to travel to Dodoma does not allow sufficient time to ponder these critical questions.

We have some examples in the recent past of making well-intentioned decisions that lead to unforeseen negative consequences, partly due to inadequate stakeholders consultation. For example, the Statistics Act which was amended, caused the withholding of development support for statistics, and is now being amended again after less than a year. We also have examples of laws being passed and being immediately challenged in court (the Political Parties Act for example). And the courts do find that there is a case to be heard or even won (Political Parties Act, Media Services Act – East African Court).

In our comments we have incorporated some of the potentially unintended and/or unforeseen consequences we see arising from the proposed amendments. ***But it is our contention that this analysis would benefit greatly from an increased window to review and rate the proposed amendments, particularly to ensure they meet their intended aims in the most efficient and constructive manner.***

In terms of the specific amendments, an overview of our submission is provided below:

**Companies Act**

We welcome and congratulate the desire to be more specific and clear in the function of companies. It is important to note that the confusion and over-lapping responsibilities only occurred once the NGO Act had been amended in 2005 so in some sense it was a problem created. We also note that the composition and definitions of companies limited by guarantee are, as such, based on global standards and by choosing to deviate from this norm, Tanzania may expose itself to unnecessary risk with regards to investor confidence and climate.

We contend that restricting the activities of companies may have the unintended effect of dampening creativity and innovation. This is especially concerning in a context where new services and goods (commodities) are constantly being created which add value to the lives of people and economies of nations. Although some provisions are made for other activities, generally, the proposed amendments are restrictive rather than enabling.

In this vein, the new and sweeping powers accorded to the Registrar to deregister companies are particularly problematic and could lead to uncertainty among investors.

### **Films and Stage Plays Act**

As technologies advance, it is important to update laws and procedures such that they are compatible with new digital technologies in particular. We especially congratulate the provision protecting workers in this industry with the requirement for them to be provided with insurance when they enter into employment contracts.

Although the amendments are designed to increase employment, income and technical capacity through this sector, we have reason to believe that the amendments if passed as they are, may stifle it.

We express reservations around the introduction of an extensive set of bureaucratic and financial burdens for foreign companies wishing to use Tanzania as a film location. We should view this interest as an opportunity for our country and thus facilitate easy access for these entities. The economic benefit does not come from directly extracting resources, which is counter to the global norm and thus likely to discourage potential clients, but instead through the promotion of the country and the ancillary economic benefits of film crews spending money in the country, their payment of local taxes, and hiring local staff. Again the modalities for reaping the most benefit from the natural wonders in Tanzania require more time and detailed review and assessment. In addition, there are some over-cumbersome requirements that appear to exert too much control on content, such as all posters requiring approval.

We urge measure and reference to global standards in the regulation of this important revenue-generating industry that provides a beacon of hope for many young people.

### **Non-Governmental Organizations Act**

As purveyors of transparency, accountability and participation, we support movements towards enhancing this within the sector. However, there are a number of concerns with the extremely narrow definition of NGOs which, if it stands, will cause the automatic deregistration of many organisations. Although the objective is to differentiate NGOs from

other entities, the narrow definition actually excludes many organisations from existing at all. The short window given to change registration to this Act also leads to doubt: given past experience this will not be sufficient time to accommodate all organisations that have to 'move house'. We propose at least six months and where necessary allow for extension. We all remember that recently that the Government extended the biometric requirements in registering simcards to ensure an efficient and effective implementation. This proposed action will benefit from such experience.

NGOs deliver significant value to the country. They are the source of millions of dollars of revenue which is almost all spent locally and injected into the economy. They provide jobs to thousands of citizens and sustenance for their dependents. They pay hundreds of millions of shillings in tax as well. And on top of all of this the services they deliver aim to transform our country. We appeal to this committee to recognise this invaluable contribution made by NGOs and so regulate the sector with a view to facilitating its work while adhering to enacted laws and the values of human dignity.

Time permitting, we would commission a short study to quantify and document the overall value that this sector brings. The currently proposed amendments present an existential threat to the existence of this vibrant, dynamic and critical sector.

### **Societies Act**

Our comments are largely aimed to increase clarity in specific clauses. However, we note with alarm, the sweeping powers granted to the minister to deregister societies and call for fair process to be observed.

### **Statistics Act**

We are pleased to see the amendments to the Statistics Act presented with a view for expanding the space for data collection, dissemination and debate around the same.

We particularly acknowledge several proposed revisions and additions of new sections that

- Provide increased clarity and specificity in definitions including those of statistical information and surveys.
- Reintroduce acknowledgement of unofficial or independent statistics for collection and dissemination
- Clarify the process by which consultations with the Bureau are to be conducted
- Allow the dissemination of specific statistical information without consultation
- Reduce disproportionate penalties

However, we continue to advocate for an independent and clear review process, and for the list of exemptions from consultation to include key facets of domestic research which makes an important contribution to policy and development also so as not to appear to be selective in our application or enactment of laws.

### **Tanzania Shipping Agencies Act**

Given past challenges, it is important to carefully and constructively regulate the sector. However, we submit that many of these changes will be destructive particularly to the many shipping agents who provide services and employment to Tanzanians.

In subsequent pages, we provide detailed analysis to support our general and specific comments.

We humbly submit,

Centre for Strategic Litigation  
Change Tanzania  
JamiiForums  
HakiElimu  
Legal and Human Rights Centre  
Policy Forum, Save the Children  
Tanzania Human Rights Defenders Coalition  
Tanzania Women Lawyers Association  
TIBA  
Twaweza