



Analysis of the Written Laws (Miscellaneous Amendments) Act. No.4 of 2021

Tangible initiatives for Local Development Tanzania (TIFLD) in collaboration with Eleven (11) other organizations namely; TWaweza, Law Age, Business and Human Right, Tanzania Network of Legal Aid Providers (TANLAP), WILDAF, Coalition for Women Human Rights Defenders, SEKA and ASSOCIATE, WATED, Tanzania Human Rights Defenders and Legal and Human rights Centre, analyzed amendments to the Miscellaneous Amendment Act (No 4) of 2021. The recommendations are jointly submitted and presented before the Parliamentary Standing Committee on Constitutional and Legal affairs. We thank the Parliamentary Committee for the Invitation to recommend this bill.

GENERAL OVERVIEW

1. The proposed bill will enhance government entities and the way they function to be more independent, efficient and efficiency. This is because it has uplifted government agencies such as MSD from being a department to an independent agency. This will reduce bureaucracy and empower the agency with a mandate to make decisions quickly and timely.
2. The proposed bill focuses on imposing more penalties than guidance, example the Mining law has increased punishment from 10million to 50million Tsh, considering that the same section is converted into an economic criminal offence which is a non-bailable offence.
3. The proposed amendments are silent on gender issues and the inclusion of other marginalized groups. Example Tanzania Extractive Industries (Transparent and Accountability) Act., and the Universal Communication Service Access Act.

GENERAL OVERVIEW/RECOMMENDATIONS

Generally, the objective of the amendment bill is good. Our recommendations on this amendment bill have been based on the rate set, time frame and the use of legal languages that may affect the effectiveness of the implementation of the law. We have noted that some of the propositions are format issues. Specifically, our recommendations are based on the following;

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1. AMENDMENT OF ELECTRONIC AND POSTAL COMMUNICATION ACT (CAP.306)				
PROVISION OF THE BILL	S. OF ACT	PROPOSED AMENDMENT	CSO's PROPOSAL	RATIONALE
S.8	S.137	Radio Communication equipment	1. This is too vague, must be specified to includes specific categories of equipment. As well, They have to leave room for discoveries	If it is left like this, which is too general, it provides room for abuse of power and limits the discovery of other radio equipment.
2. AMENDMENT OF THE MEDICAL STORES DEPARTMENT ACT, (CAP.70)				
S.15	S.3	The law mentioned it as a department	We propose the law to clearly state that MSD is an executive agency.	The amendments intend to empower MSD to be an agency however there is a conflict between S15 (1) and (2) because one it refers to MSD as a department and two as an agency. This creates confusion and double personality.
3. AMENDMENTS OF THE TANZANIA EXTRACTIVE INDUSTRIES (TRANSPARENT AND ACCOUNTABILITY) ACT, (CAP. 436)				

PROVISION OF THE BILL	SECTION OF ACT	PROPOSED AMENDMENT	CSO's PROPOSAL	RATIONALE
S.51(b)	S.5	Composition of Stakeholders	The composition of Stakeholders should be equal. We propose to maintain the status quo, the current law.	The previous composition was fair in terms of the number of representatives. However, the new proposal has added many government representatives and a few representatives from other sectors. This is an equal representation of the unbalanced decision.
4. AMENDMENT OF THE MINING ACT (CAP.123)				
S.25	S.18(4)	Possession of Minerals without a license is illegal	We proposed criminality should not extend to the honest possessor.	The law should acknowledge the aspect of intention (mansrae) to the offence, to reduce the possibility of prosecuting people in possession with intent.

S.24	S.10	Special arrangements.	The word special arrangement should be defined to remove confusion and ambiguity	The word special arrangement is vague and can create confusion example. The same words are used when it comes to gas, pipeline, communication, minerals and energy etc.
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2. AMENDMENT OF TANZANIA POSTS CORPORATION ACT (CAP. 303)				
PROVISION OF THE BILL	SECTION OF ACT	PROPOSED AMENDMENT	CSO's PROPOSAL	RATIONALE
S.58	S.8	Posts Corporation have an exclusive right of posts operation	To reduce monopoly, we propose open investment from the private sector and create room for tax collection and revenue	To promote efficient and effective service delivery and increase innovation and creativity and reduce monopoly.

				Promote tax collection and revenue and fair competition in the sector
4. AMENDMENT OF THE WORKERS COMPENSATION ACT(CAP 263)				
PART XIV		Spelling	The word Compensation should be written correctly	To reduce ambiguity. The law should be clear.
5. AMENDMENT OF THE UNIVERSAL COMMUNICATIONS SERVICE ACCESS ACT,(CAP. 422)				
S.66(4)	S.7	Reduction of members of the board.	We recommend the composition of the members to remain the same as the current one.	The rationale is to promote The board to be a multi-stakeholders board, however, the new proposed amendment makes the board more of a governmental body instead of a multi-stakeholders board.