



ANALYSIS OF THE FINANCE BILL OF 2024

By Tanzania Human Rights Defenders Coalition (THRDC)

1. About Tanzania Human Rights Defenders Coalition (THRDC)

Tanzania Human Rights Defenders Coalition (THRDC) is a membership and umbrella organization with 265 human rights organizations across Tanzania mainland and Zanzibar. It was registered in 2012 under the NGOs Act 2002. THRDC's overall goal is to contribute to the growth of civic space in which Human Rights Defenders (HRDs)'s working environments are improved in accordance with the 1998 UN Declaration on Human Rights Defenders. THRDC works throughout Tanzania (Mainland and Zanzibar) and has deliberately categorized its members into 11 (eleven) operational zones which has simplified access and support to HRDs in need since the decentralization has brought power at the grassroots level. Currently, the Coalition has two offices, the headquarters in Dar es Salaam and the THRDC branch in Zanzibar.

Currently, the Coalition is implementing its 3rd Strategic Plan which is working towards reversing the drivers contributing to the shrinking of the civic space. To realize this goal, THRDC works to mobilize its members and the public to effectively address HRDs' rights and human rights protection issues; Capacity building and empowerment to its members/ HRDs and other stakeholders to efficiently engage in the protection and promotion of HRDs' rights; Engagement for Legal and Policy Reforms and implementation in favor of HRDs. It is through this goal that the Coalition in collaboration with the Office of NGOs Registrar, NaCoNGO and The National NGO Board has been working with the Tanzania Revenue Authority (TRA) for about five years now to solve CSOs' Tax Compliance issues.

1.1 Analysis of The Finance Bill 2024

Analyzing The Finance Bill 2024 from a non-profit taxation perspective, the bill affects non-profit organizations (NPOs)'s financial operations, and their ability to fulfill their missions. These are provisions related to tax exemptions, reporting requirements, and any specific levies or duties that might affect their operational costs. This analysis is of two folds: (1) Analyzing the Finance Bill 2024 from a non-profit perspective (2) from economic impact perspective.

The CSOs/Nonprofit Sector plays an important role in promoting economic growth, developing society, improving communities, and promoting citizen participation. NGOs are particularly critical to the socioeconomic development of countries where government capacity and revenues are limited. The CSO sector in Tanzania has contributed significantly to the country's development across all sectors of the economy. These include among others, supporting the public in poverty

alleviation, Policy and legal reforms, environmental protection, service delivery, and capacity enhancement among others.

A: Analysis and Recommendations on Proposed Amendments in "The Finance Bill 2024" from a Non-Profit Perspective

Context Overview: Part X of "The Finance Bill 2024" proposes amendments to the Income Tax Act, Cap. 332. Specifically, **Section 64** is to be amended to include the advancement of health and environmental protection as criteria for obtaining charitable organization status. The objective of this amendment is to promote charitable services related to health and environmental protection and address global climate change effects.

B: The proposed amendments have broadened the recognition of charitable activities from non-profit organizations. The inclusion of health and environmental protection as criteria for charitable status acknowledges the importance of these sectors. Non-profits working in these fields will meet criteria to be recognized as charities while other non-profits working in other thematic areas like child rights, gender violence, economic rights, human rights in general continues to be taxed as corporate Organisations.

2.0 Current Challenges for Non-Profits

2.1 Taxation of NGOs: Non-profit organizations are taxed as corporate entities. They pay corporate tax at 30% on income from members' fees, donations, and grants, with payments made quarterly as per Section 88 of the Income Tax Act (RE 2019) They must file annual returns within six months of the year-end (Section 91(1) of the Income Tax Act.

2.2 Charitable Status and Bureaucracy: NGOs can obtain charitable status through the Commissioner's private ruling under Section 11 of the Tax Administration Act Cap 438, provided they meet the criteria under Section 64(8) of the Income Tax Act Cap 332. This process is bureaucratic and time-consuming.

2.3 Limited Exemptions: Even with charitable status, organizations are not fully exempt from income tax. The difference lies in the items considered as chargeable income and allowable expenditures.

2.4 Current Definition of Charitable Organizations

Section 64(8) defines charitable organizations as public entities focused on poverty alleviation, the advancement of education, or the provision of health and infrastructure. The proposed amendments in the Finance Bill of 2024 include the advancement of health and environmental protection as criteria for obtaining charitable organization status. . Although we commend these developments, CSOs working in these areas still face taxation unless they obtain charitable status, and the process remains bureaucratic. These amendments should be expanded to include all areas worked on by non-profit organizations, such as legal aid providers, human rights promotion and protection, social service providers, humanitarian organizations, community economic empowerment organizations, etc.

2.6 The Law Does Not Differentiate Between Profit-Making and Non-Profit Organizations

The tax regime in Tanzania has grouped CSOs with other taxpayers who are profit-making entities. Essentially, CSOs are not taxpayers but tax agents on behalf of TRA. Registering CSOs as companies subjects them to the same tax requirements as profit-making organizations. According to the Income Tax Act, non-profit organizations are treated as companies. Non-profit organizations are only associated with "charitable organizations" under Section 64(1) of the Income Tax Act, which is not directly aligned with the conditions stipulated under Section 64(8)

3.0 Recommendations

3.1 Align Definitions and Tax Exemptions by widening the definition of charitable organizations to align with NGO laws, ensuring all CSOs engaged in public good and providing charities are eligible for tax exemptions. Therefore, the following definition of Charitable organization is proposed;

íA charitable organization is a type of voluntary group of individuals or organizations registered as an institution and not distributing profits to achieve objectives that benefit the public or a large part of the public. These objectives focus on addressing social welfare, including providing various social, economic, educational, legal, health, cultural, environmental, and humanitarian services, as well as promoting human rights, good governance, social accountability, and providing legal aid to the public. Charitable organizations are recognized for their dedication to soliciting resources domestically and internationally or using their resources and efforts to improve societal welfare without the intent of sharing profits for personal gain.í

3.2 Simplify the procedure for obtaining charitable status to reduce bureaucratic delays. A non-profit organization becomes charitable organization after it has been issued with the Commissioner's private ruling under Section 11 of the Tax Administration Act Cap 438 following his satisfaction that, the establishment, objectives and functions of the entity are of the nature described under Section 64(8) of the income Tax Act Cap 332.]

Clear Guidelines for Non-Profit Income are recommended to clearly state that any funds received by a CSO for project purposes should not be taxed as profit-generating income. Section 11 of the Tax Administration Act Cap 438 and Section 64(8) of the income Tax Act Cap 332 to reflect this should be amended to reflect.

3.3 Section 11 of the Tax Administration Act, Chapter 438, and Section 64(8) of the Income Tax Act, Chapter 332, should be amended to reflect this. Creating a favorable environment for CSOs in tax laws is essential. The law should also adopt the definition of a Charitable Organization as stated in the NGOs Act.

3.4 To avoid unpayable tax penalties and interest, we advise the government to review Section 78 (1) and (2) of the Tax Administration Act by removing the requirement of a monthly penalty for failing to file zero returns for Non-Profit Organizations that have not secured grants.

The proposed amendments to Section 64 of the Income Tax Act are a positive step towards supporting non-governmental organizations focused on health and environmental protection. However, greater alignment with NGO laws and simplification of the tax exemption process are crucial to fully support the non-governmental sector. By adopting these recommendations, policymakers can ensure a conducive environment for all charitable organizations, enabling them to thrive and effectively contribute to societal well-being and sustainability.

4.0 Conclusion

The Finance Bill of 2024 introduces several amendments to existing tax and non-tax laws to adjust economic policies and improve various sectors, including agriculture, industry, and local government administration. A significant proposal enables taxpayers to submit documents to the Commissioner-General electronically, formalizing the existing procedure. Moreover, the proposed bill introduces taxes on digital services and rental income. Additionally, the bill introduces new regulations for gaming activities, including vendor certifications and penalty adjustments.

We commend the government for ensuring that every Tanzanian required to pay taxes according to their income does so. The amendments to the Income Tax Act (Part X), Section 3, introduce taxes on digital services and rental income, while Section 10 increases tax rates for individuals and companies.

Human Rights Perspective: Higher taxes on digital services may reduce access to information and digital rights, especially for low-income individuals. The increase in taxes on rental income may affect housing affordability. While we recognize that every Tanzanian should pay taxes on their income, we advise caution with these digital service taxes to prevent them from restricting internet freedom. The bill proposes a 3% withholding tax on social media influencers. We do not oppose taxing all income earners, but we caution that this provision should not be used to restrict internet freedom.

We appreciate the Parliamentary Committee for receiving these submissions and are confident that the interpretation of Charitable CSOs will be improved by considering these recommendations from the CSO sector.

SUBMITTED BY:

TANZANIA HUMAN RIGHTS DEFENDERS COALITION (THRDC)

23 JUNE 2024

DODOMA