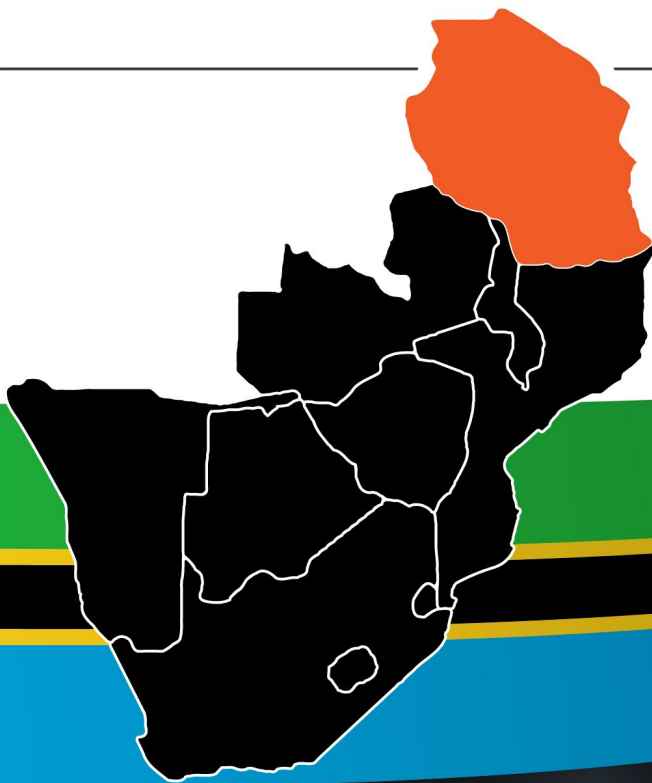


# Understanding the Legal Framework for Philanthropy in Southern Africa



## Tanzania Report

Elias Xavier

January 2023



Landscape plan  
SIVIO Institute

# ACKNOWLEDGEMENTS

SIVIO Institute extends its gratitude to Elias Xavier for conducting this study. We are also grateful to the philanthropy organisations in Tanzania that took part in the survey. The outcome of the study was made possible because of their willingness to share their experiences and perceptions on their operating context.

This study was made possible through funding provided by WINGS and the European Union.



Co-funded by  
the European Union





# EXECUTIVE SUMMARY

Philanthropy in Africa has been in existence for many years since it is in the social fibre of the African people.

Modern ways of doing philanthropy, however, come with many rules and regulations that often inhibit rather than enhance the work of helping those in need. The purpose of this study is to analyse the legal framework that is in place in Tanzania to see whether it helps or hinders the work of philanthropic organisations in that country.

The laws in Tanzania seem to relegate philanthropy work to a few organisations and CSOs that choose to register as charitable organisations. Others who do not hold that status are not recognised as philanthropic even though all their work is of a charitable nature. Such organisations do not enjoy benefits like tax exemptions that other charitable organisations enjoy.

This study incorporated desktop research which discovered 5 laws that govern the aspects of philanthropy under study, namely registration, government oversight and compliance, taxation regime and incentives, resource mobilisation and ease of supporting governance and human rights work. The second part involved an online survey administered to 15 organisations already registered and operating in Tanzania which sought to find out how much they knew about the laws in place and how these laws affected them in their daily operations. Of these 8 were charitable organisations, 4 were community foundations, 2 religious organisations and 1 regranting organisation.

Registration processes in Tanzania vary in complexity depending on the level of operation of the organisation. Some organisations operate only in the region while others span several regions up to national level. As a result, responses from surveyed organisations were varied. When it came to producing documents, most organisations felt that the process was easy, though a few organisations felt it was a very difficult process. The duration of registration was found to be very short in general with the majority (67%) stating that it took them a month or two to register. A majority of the organisations also felt that the registration fees were reasonable.

On compliance issues, organisations indicated that they are expected to renew their registration from time to time. All eligible organisations also indicated that they submitted reports to a regulatory body. Organisations had to comply with bank requirements which included three or more signatories, domiciled in the country, declaration of funds and the number of accounts an organisation has to have. All CSOs are required to reregister after 10 years



of operation. The reregistration is used to check if the organisation is compliant to other issues in the decade of operation. If this is not the case organisations may lose their 'registered' status.

Respondents indicated that on taxation, there were a number of possible ways in which the Tax laws were applied. For example, as indicated before, not all organisations are viewed as charitable organisations that qualify for exemptions. Some organisations get reduced rates on their taxes because of the charitable work that they do. For this reason all taxes surveyed indicated a number of organisations being taxed at different rates ranging from an exemption to as high as above 20%. In general, Pay as You Earn (PAYE) is the only one with the smallest percentage of organisations being exempted. All other taxes looked at had the highest percentage for exemptions.

Respondents indicated that there were no benefits for organisations and individuals who give to philanthropy causes. However, philanthropy organisations get tax relief and exemptions.

Movement of money across the border and within the borders of Tanzania was also looked at. Respondents highlighted that the laws for movement of money both in the country and across the border were fairly flexible and allowed them to access the money easily. Although a significant number of organisations felt that the transfer charges were high, a two-thirds majority felt that they were fair with one responding organisation indicating that they were actually low.

In a number of issues in this survey, respondents were asked to indicate the number of laws that are in place affecting an issue like the transfer of money across the border among others. It emerged in all the questions that the majority in each case were those who indicated they were aware of the presence of laws but were unable to state how many they were exactly. The few that tried to indicate a number were distributed across the other options that indicated a specific number of laws. This shows that most philanthropy organisations operate in a legal environment that they are not fully aware of.

From the findings of this research, it is recommended that there be a philanthropy agency responsible for informing organisations of laws in place and to advocate for issues that concern philanthropy organisations. Organisations should also make it their business to learn about the legal frameworks in place that affect them.

The regulatory bodies should not tax donations or grants that organisations receive since they are not being used for profit but to help those in need. Organisations who donate to charity should also be given incentives in form of tax exemptions so that they are encouraged to give to these organisations.



# Table of Contents

Acknowledgements	2
Executive Summary	3
List of Figures	5
List of Tables	6
1.0 INTRODUCTION	7
1.1 Background to the study	7
1.2 Purpose and objectives of the study	8
1.3 Research Methodology	8
2.0 LEGISLATIVE ENVIRONMENT – REVIEW OF CURRENT LEGAL FRAMEWORK INFLUENCING PHILANTHROPY IN TANZANIA	9
2.1 Ease of registration	9
2.2 State oversight and compliance to remain registered	11
2.3 Taxation regime and giving	11
2.4 Resource mobilisation and movements of funds	13
2.5 Incentives to promote giving as part of national development	14
2.6 Supporting governance and human rights-focused work	15
3.0 KEY FINDINGS FROM THE SURVEY	16
3.1 Background of organisations surveyed	16
3.2 Navigation by organisations of registration and compliance	17
3.3 Taxation and incentives for giving	21
3.4 Giving and wider national development	22
3.5 Raising and moving monetary resources	22
3.6 Supporting advocacy-focused work	26
4.0. CONCLUSION	27
5.0 RECOMMENDATIONS	28
REFERENCES	29



## List of Figures

<b>Figure 1:</b> Age of organisations	16
<b>Figure 2:</b> How long it takes to register an organisation	18
<b>Figure 3:</b> Does a philanthropy policy exist in Tanzania	22
<b>Figure 4:</b> Nature of tax benefits	23
<b>Figure 5:</b> Number of laws restricting the movement of money across the border	24
<b>Figure 6:</b> Flexibility of laws for moving money within Tanzania	25

## List of Tables

<b>Table 1:</b> Perceptions on ease of producing documents for registration	17
<b>Table 2:</b> Rating Mode of registration	19
<b>Table 3:</b> Bank requirements	20
<b>Table 4:</b> Tax rates	21

## Acronyms

CSO	Civil Society Organisation
NACONGO	National Council of NGOs
NGO	Non-Governmental Organisation
PAYE	Pay-As-You-Earn
THRDC	Tanzania Human Rights Defenders
VAT	Value Added Tax



# INTRODUCTION

## 1.1 Background to the study

With the growing discourse on the shrinking civic space it is important to assess how philanthropy organisations are being affected. According to the Tanzania Human Rights Defenders (THRDC), there are about 10 laws that govern and regulate Civil Society Organisations (CSOs) in Tanzania. The legal environment on philanthropic matters is not conducive for mainstream CSOs in Tanzania. In fact, the framework appears to have solely taken philanthropy to be a business of religious and purely charitable organisations. Even Income Tax Act Cap 332 R.E. 2019 does not seem to consider the mainstream CSO which are required to also obtain charitable status to benefit from exemptions or deductions. This situation discourages giving and philanthropy as a whole. Therefore this study seeks to understand the extent to which the legal operating environment either inhibits or promotes philanthropy in Tanzania. This comes as part of the bigger Southern Africa wide regional study on the legal environment for philanthropy.



## 1.2 Purpose and objectives of the study

The study sought to understand the legal operating environment for philanthropy in Tanzania through the assessment of the laws in place that either inhibit or promote philanthropy. It also takes into account the perceptions of the practitioners in the field in terms of how they view the operating environment. Specific objectives are:

- To identify and assess how existing laws and public policies impact practices of giving,
- To raise awareness of the challenges confronting the philanthropy sector, and
- To influence legal and policy reforms for an improved philanthropy environment.

## 1.3 Research Methodology

The study incorporated both secondary and primary data where secondary data was collected through a desktop review of the laws that have a bearing on philanthropy in Tanzania. Primary data on the perceptions of practitioners was collected by deploying an online survey. A questionnaire was designed and the survey targeted decision makers as respondents from philanthropy organisations. The study was framed around six thematic areas which are: i) Ease of registration, ii) compliance processes and procedures, iii) Tax Regimes, iv) Existing incentives to promote growth and role of philanthropy in national development, v) Processes in places for movement of financial resources within and across borders and lastly vi) Ease of supporting political and civil rights-focused work.





## 2.0 LEGISLATIVE ENVIRONMENT – REVIEW OF CURRENT LEGAL FRAMEWORK INFLUENCING PHILANTHROPY IN TANZANIA

An assessment of the laws that govern philanthropy in Tanzania was done through a desktop search. The laws were assessed guided by the six thematic areas mentioned. Findings show that there are five (5) laws that affect the sector and some of the laws cut across the different thematic areas.

### 2.1 Ease of registration

In Tanzania registration of philanthropy organisations, CSOs in general, is very bureaucratic. There are at least four (4) laws that govern the registration of organisations and these try to cater for the different kinds of philanthropy organisations that exist in the country. There is the Non-Governmental Organisations (Amendments) Regulations of 2019 which amended the provisions of the Non-Governmental Organisations Act



of 2002. The amended act empowers the Registrar to appoint a public officer in each district and region to be the registrar of NGOs in that district or region making the registration process easy for organisations through the decentralisation initiative. The NGO Act of 2002 had a narrow definition of NGO to exclude some of the organisations operating in almost a similar manner as NGOs such as religious or faith propagating foundations. Hence the other laws like the Societies Act (1954) and the Companies Act of 2002 cater for such various philanthropy organisations. The Companies Act 2002 allows for the registration of companies limited by guarantee and these are non-profit in nature and to some extent philanthropic in nature. These are usually the philanthropy arm of some companies. However, generally the process is cumbersome and in most instances like in the registration under the NGO Act, various documents are required such as a Copy of the Constitution of the Non-Governmental Organisation (3 bound Copies), minutes containing full names and signatures of the founder members, personal particulars of office bearers (Chairperson, Secretary, and Treasurer with 2 photographs). For International NGOs, also, the required documents are many, and the process is cumbersome. With regards to registration fees, they are usually high, especially for grassroots organisations particularly in rural areas. Therefore, most CSOs are formed by founders from urban areas who then operate in rural areas. Costs of registration also depend on the level at which the organisation operates at, for example, district level operating organisations pay an equivalent of US\$40.00 at the point of writing.

To make things harder in terms of registration, organisations that register as NGOs are required to re-register after every 10 years and that is done after applying to the NGO board six months before the expiration of its certificate. This requirement is sometimes misused to deny re-registration for some of the CSOs especially those working on issues of human rights and governance. On the other hand, Philanthropy organisations operating as companies limited by guarantee are not required to re-register.

Lastly, another issue making registration challenging is the standard structure of the constitution, not as required by CSO's founding members, but by the Registrar of NGOs. In this, NGOs must adopt the standard NGO Constitution provided under NGO A-FORM



No. 16, under the first schedule of the 2019 Regulations issued under the NGO Act (The NGO Act (Amendments) Regulations, 2019 Section 21)). This form in some ways interferes with free thinking and limits the freedom of CSOs to develop a constitution in a manner they wish to.

## 2.2 State oversight and compliance to remain registered

The study also showed that some of the laws that govern registration also make provisions for compliance procedures and processes to remain operational for organisations. In recent years, CSOs have been under close supervision by the Government, unlike the situation over a decade ago. The oversight powers range from daily management, approval of grants agreements by the Registrar of NGOs, requiring the submissions of annual performance reports, audited reports, and power to suspend or deregister an NGO to mention but a few. In most cases the NGO act provides most compliance guidelines. NGOs are regulated by the Registrar of NGOs who is appointed by the President under section 3(1) of the Act. Trusts are regulated by the Registrar-General while the Registrar of Societies regulates societies. Companies limited by guarantees are regulated by the Registrar of Companies.

NGOs are required to seek approval of the grants they receive that are over TZS 20 Million shillings (\$ US 8,580 in equivalence). This is a huge impediment to the operations of the NGOs as this is coupled with obtaining the sanction of the sector Ministry. Projects that seek to expand human rights, democracy, sex-equality, or pregnant girls' education stand to be denied approval which affects the liberties of missions of organisations.

## 2.3 Taxation regime and giving

The main law that deals with the taxation of incomes in Tanzania is the Income Tax Act Cap 332 R.E. 2019. Income is generally derived from three sources employment, business and investment (section 5(1)). The Act provides for two mechanisms of taxing



CSOs i.e., as a trust or a charitable organisation. The law states that a trust or unit trust is liable to pay tax separately from its beneficiaries. Also the act provides a definition of a charity organisation as such that satisfies the following:

- (a)** The entity was established and functions solely as an organisation for:
- ii. the relief of poverty or distress of the public;
  - iii. the advancement of education; or
  - iv. the provision of general public health, education, water or road construction or maintenance.

Charitable organisations or religious organisations that meet the above criteria are deemed to conduct philanthropy work. Section 64(2)(a)-(b) requires that the income of a charitable organisation from its charitable business to include gifts, donations received by the organisation and the deduction of all income spent in furthering the functions of the organisation through providing reasonable benefits to resident persons, or where the expenditure on the benefits has a source in Tanzania, persons resident anywhere; and 25% of its income from charitable business calculated without deduction of its reasonable benefits it provided to resident persons in the year of income.

The Income Tax Act also makes provisions for business and individual donations. The act allows for the deduction of donations made by a business to a charitable organisation that has a certificate of charitable status issued by the Commissioner General or for a social development project and a donation made under section 12 of the Education Fund and amount paid to local government authority which are statutory obligations for the support of community development projects. However the deduction of those donations to a charitable organisation cannot exceed 2% of the person's income. Moreover, an individual employee who out of his or her philanthropic endeavours decides to make a donation is allowed but he can only claim a deduction for the donations only made under section 12 of the Education Fund Act. Overall, despite the presence of some incentives to encourage giving through tax relief for businesses or individual donors, the bureaucracy involved is high and will likely result in prospective donors being discouraged from giving.



## 2.4 Resource mobilisation and movements of funds

Philanthropy organisations and CSOs in general are permitted to raise funds but are subject to intrusive government approval and disclosure requirements. This is manifested by a number of obstacles more on resource mobilisation than movement of funds.

Resource mobilisation is hindered by a number of factors such as the obligation for philanthropy organisations to obtain a certificate of charitable status from the Commissioner General of Tanzania Revenue Authority in order to have tax exemption. Most CSOs that do not have a charitable status certificate stand to be levied with huge tax penalties on grants that are otherwise solely given to perform charitable activities. Grants received from donors might be deemed to be “gifts to a business” and, therefore, taxable as per section S. 8(l) and (2) of the Income Tax Act.

Notably, most CSOs do not meet the criteria for charitable organisations according to Section 64(8) of the Income Tax Act requirements. As mentioned earlier, the Act defines charitable organisations as established and functioning solely for i) the relief of poverty or distress of the public; ii) the advancement of education; or iii) the provision of general public health, education, water or road construction or maintenance.

To complicate the situation on the management of funds from fundraising activities, philanthropy organisations are supposed to account for resources spent in fundraising within 14 days from the fundraising event. This situation is tough when the funds are for a project whose implementation requires weeks or months or years. CSO have to submit contracts for grants from donors for review and approval to the Registrar of NGOs.

For NGOs that receive funds that exceed twenty million Tanzanian shillings (About \$ US 8,583) they are obliged to:

**(a)** publish bi-annually the fund received and its expenditure in a widely circulated newspaper and other media channels which are easily accessible by the targeted beneficiaries;



- (b) cause the contracts or agreements entered with donor or person who grant the said fund to be submitted to treasury and the Registrar not later than ten days from the date of entering the said contract or agreement for approval;
- (c) declare to the Registrar of Non-Governmental Organisations any other resource received either in cash or in kind before its expenditure.

## 2.5 Incentives to promote giving as part of national development

The incentives to promote giving in Tanzania are there but insufficient. As explained earlier CSOs though permitted to raise funds are subjected to intrusive government approval and disclosure requirements. Obligations such as obtaining an intractable certificate of charitable status certainly does not serve as an incentive to promote giving. Tax relief for philanthropists is also difficult and almost non-existent as grants offered to CSO may as well be deemed funds for business and end up being taxed as per section S. 8(l) and (2) of the Income Tax Act. The disclosure of contracts is by all accounts discouraging giving as some givers would prefer anonymity. Only solely registered charitable CSOs can enjoy tax exemption but a large number of CSOs cannot and find it hard or impossible to get the charitable status needed in order for them to be tax exempted.

Most CSOs that do not have a charitable status certificate stand to be levied with huge tax penalties on grants that are otherwise solely given to perform charitable activities. A closer look at the Regulation shows that this regulation is not within the bounds of what section 32 of the Non-Governmental Act provides. Section 32 of the Act allows without any restriction and conditions the raising of funds from any source. It does not impose any requirements on the funds raised. But Regulation 13(b) imposes a requirement of seeking and obtaining the approval of the Registrar of NGO for contracts and agreements not later than ten days from the date of signing the agreement. This means even though the NGO has already entered into a contract with the donor, the said grant contract cannot be executed until the NGO receives the approval of the Registrar of NGOs.



## 2.6 Supporting governance and human rights-focused work

Unfortunately, issues of governance and human rights are where the government and CSOs are often at loggerheads. For some time, the relationship between government officials and CSOs dealing with governance and human rights has not been cordial. There is nothing significant or special treatment that governance and human rights CSOs receive in order to do their work. In reality, these CSOs during election time or heated political periods need to tread carefully as the regulations give the government an edge to deal with them as it deems fit should it feel displeased. In particular, the government may disapprove funds donated to these CSO by their foreign donors yet most organisations depend on foreign funding.





## 3.0 KEY FINDINGS FROM THE SURVEY

The survey was deployed to philanthropy organisations in Tanzania. These were identified as either charity organisations, religious organisations, regranting organisations, corporate foundations and community foundations. While the assessment of laws showed that there are five laws that govern philanthropy in Tanzania, the perceptions survey sought to interrogate the views based on the experiences of the practitioners on the ground.

### 3.1 Background of organisations surveyed

A total of 15 organisations took part in the survey and these were identified as Charity organisations (8), Community Foundations (4), religious organisations (2) and a regranting organisation (1). None of the corporate foundations responded to the survey. In terms of the number of years in operations by these organisations, they ranged from 2 to more than 10 years as represented by figure 1.

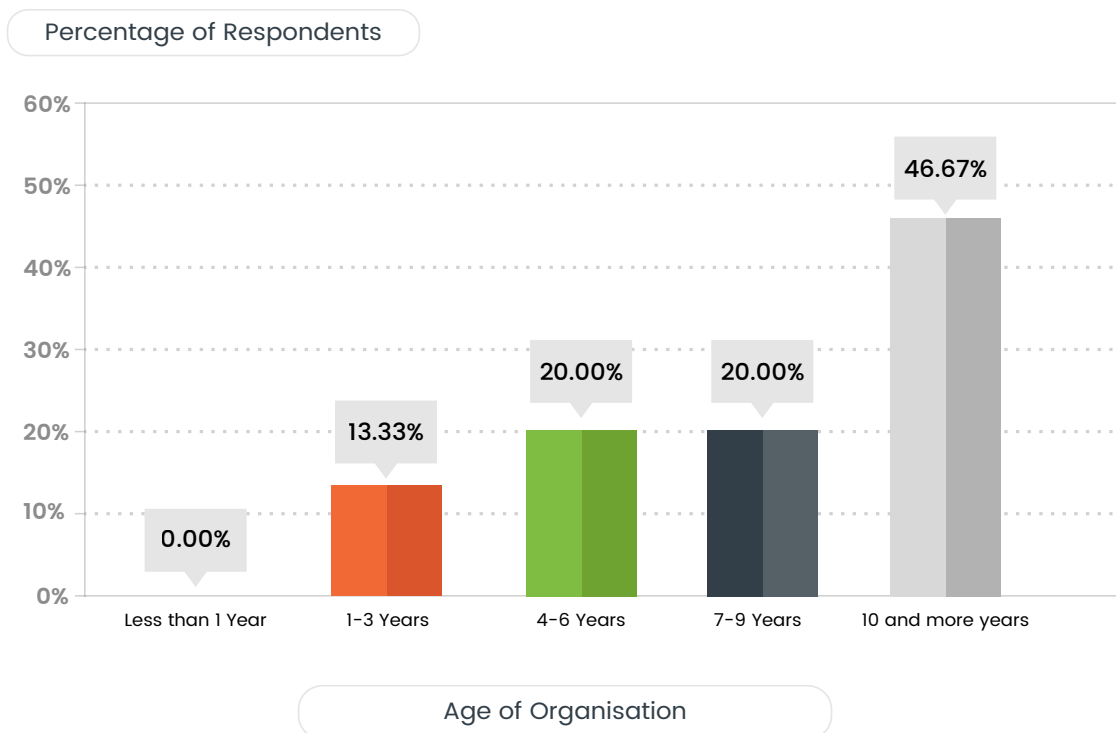


Figure 1: Age of organisations





Many of the organisations, 47% (7) were 10 years old and above. No organisation was recorded to be below one year in operations. The assumption is that most of the organisations would be familiar with the operating environment.

### 3.2 Navigation by organisations of registration and compliance

According to the survey, there were different responses as far as the number of documents needed during registration and issues of compliance. This is mainly due to the diversity in operational levels of each organisation, type of organisation and the number of years of operation.

With regard to the ease of producing documents for registration there were mixed responses. The survey wanted to find out an organisation's opinion on whether producing documents is very difficult, difficult, somewhat easy, easy or very easy. The majority viewed the process as somewhat easy to very easy. Only 13% (2) of organisations surveyed used the word hard in answering this question.

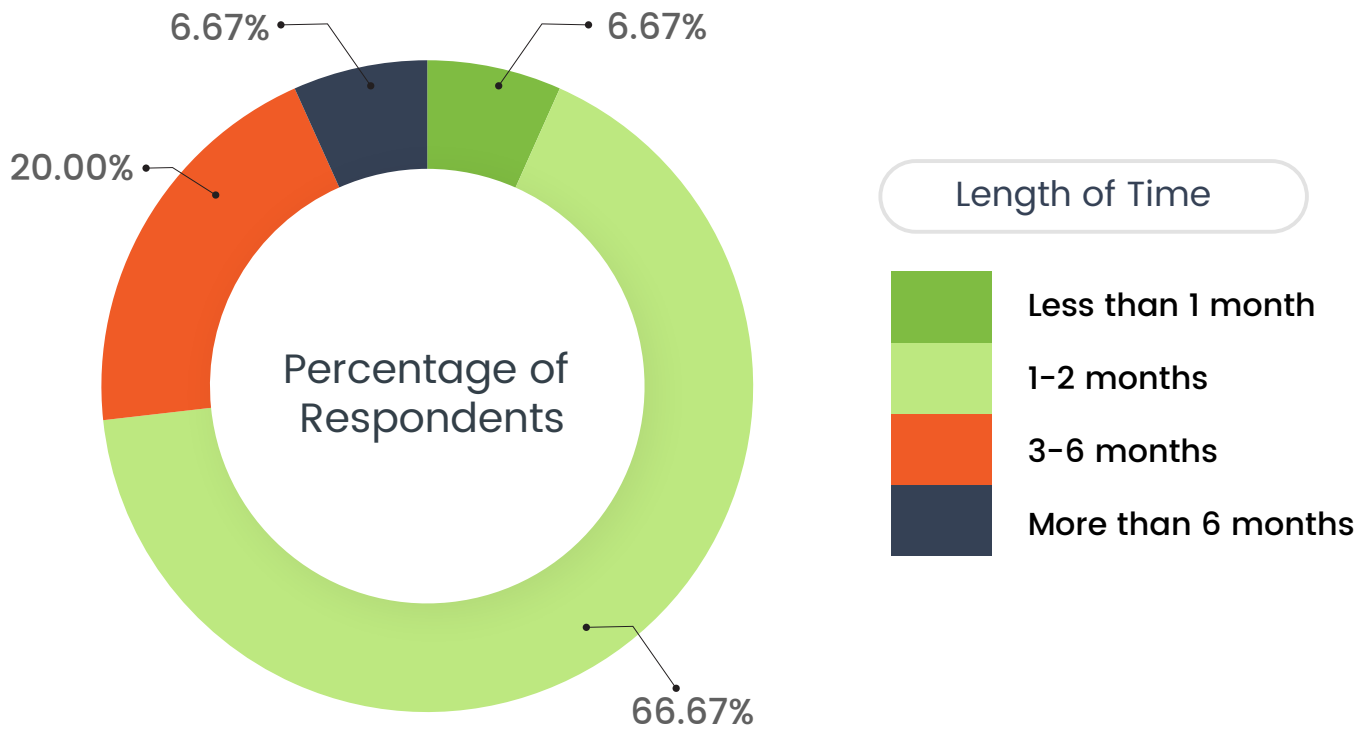
**Table 1: Perceptions on ease of producing documents for registration**

Rating	#	%
Very Difficult	1	6.67%
Difficult	1	6.67%
Somewhat Easy	7	46.67%
Easy	4	26.67%
Very Easy	2	13.33%

The mixed response above may be mainly due to different reasons such as the level of operation (district, national or international).



On how long it takes for an organisation to register, the survey produced varied feedback as well. The timeframe ranged from 1 – 6 months. A key factor out of other factors contributing to the discrepancy is the levels of operation by a particular CSO. The majority of respondents, 67% (10), indicated it takes between 1-2 months whereas 27% indicated it takes three and more months to register an organisation. For any vibrant society, this timeframe for registration is still long and needs to be reduced.



**Figure 2: How long it takes to register an organisation**

Also, the survey found that the registration fee is costly to a few organisations and reasonable to many other. Generally, the majority of respondents 80% (12) indicated that the registration fee was reasonable while 20% indicated otherwise. Again, the feedback is influenced by the size of a particular CSO and the level of operation (district, regional, national and international).

On the rate of efficiency of a mode of registration, the survey sought to get an opinion regarding online and in-person registration. The majority of organisations (40%) found online means to be fairly efficient while surprisingly 20% thought it is nonexistent. None of the respondents indicated the mode is very efficient. Only 2 respondents (13.33%)



think the mode is efficient. However, many viewed in-person means as quite inefficient as indicated by 33% of respondents.

**Table 2: Rating Mode of registration**

Mode Of Registration	Unavailable	Very Inefficient	Inefficient	Fairly Efficient	Efficient	Very Efficient	Total	Weighted Average
Online	20.00% 3	13.33% 2	13.33% 2	40.00% 6	13.33% 2	0% 0	15	2.13
In-person	20.00% 3	13.33% 2	33.33% 5	6.67% 1	20.00% 3	6.67% 1	15	2.13

The study sought to understand whether registration centres in Tanzania are decentralised, that is; if it can be done at local authority offices or if people need to travel to specific cities/ towns to register. Results show that 3 respondents (20.0%) indicated that registration is decentralised and can be done at the local level. Majority of respondents, 80% (12), indicated that people need to travel to specific towns/ cities to register. This is contrary to the provisions of the NGO Act which allows for the decentralisation of registration centres for organisations of the same nature.

On the issue of renewal of registration, the majority of respondents 87% (13) indicated that renewal of registration was needed. 2 other respondents (13%) reported that there was no need for renewal. Renewal of registration is based on the nature of the philanthropy organisations, for example, religious entities (13%) do not require renewal while the majority (87%) require renewal of registration.

Those that require renewal reported on how often they renewed registration; 2 respondents (15%) renew annually while 1 respondent (8%) indicated they renew every 5 years.

On the availability of a regulatory body for philanthropy in Tanzania, 9 respondents (60%) indicated YES whilst 6 respondents (40%) indicated NO. The discrepancy in response might have been contributed by the level of understanding of what a philanthropy regulatory body is and what it does. There is no specific single body that solely regulates



philanthropy at the point of writing, in Tanzania. However multiple bodies such as the Registrar of NGOs, Tanzania Revenue Authority and Ministry of home affairs regulate aspects of philanthropy in the country although there is no specific body.

On submission of reports to the regulatory body, 9 of the 15 organisations responded to the question. All of them or 100% reported that they submit reports to a regulatory body. Here it can be assumed that the 6 others that didn't respond to this question have not been complying with the provision that requires all CSO to submit annual reports. It could also be due to the nature of the organisation, religious organisations do not renew registration at all and they could also be part of the organisations that do not submit documents.

Further, in line with the same, on how often they submit the reports; 4 organisations (44%) said they submit annually. 3 organisations (33%) said they do so biannually (i.e. every six months). The other 2 organisations (22%) did not specify.

The survey also sought to find out what banks require of philanthropy entities to ensure compliance. In this, there was a mix of responses just as shown in the table below:

**Table 3: Bank requirements**

Requirements	#	%
Declaration of source of funds	8	53.33%
3 or more signatories	14	93.33%
Signatories are strictly domicile in the country	6	40.00%
Number of accounts the entity has to have	2	13.33%
Other	2	13.33%



Organisations were asked if there was a specific tax code for the philanthropy sector in Tanzania. The majority (80%) indicated that there was a tax code while 20% indicated that there was no tax code.

### 3.3 Taxation and incentives for giving

The survey sought to get an opinion on tax-related laws governing giving in Tanzania. The feedback was mixed as follows: 1 CSO or 7% said there is 1 law. 2 CSOs or 13% said there were 3 laws. 3 CSOs said there were 4 or more laws. Lastly, 9 CSOs or 60% said there are laws but are unsure of how many. This feedback shows that most organisations operate in the legal environment but they are not aware of the laws governing their operations.

Further, the survey sought to get opinions on the rate of taxation and philanthropy organisations with exemptions were asked to indicate it accordingly. The next table below shows the feedback:

**Table 4: Tax rates**

	Exempt	0-5%	5-10%	10-15%	15-20%	Above 20%	TOTAL	Weighted Average
Value Added Tax (VAT)	53.33%	20.00%	0%	0%	26.67%	0%	15	1.53
	8	3	0	0	4	0		
Pay-As-You-Earn (PAYE)	13.33%	13.33%	26.67%	13.33%	13.33%	20.00%	15	2.6
	2	2	4	2	2	3		
Customs duty	53.33%	26.67%	6.67%	0%	0%	13.33%	15	1.73
	8	4	1	0	0	2		
Tax on transfers	33.33%	40.00%	13.33%	0%	6.67%	6.67%	15	2.73
	5	6	2	0	1	1		
Income Tax	40.00%	13.33%	6.67%	13.33%	13.33%	13.33%	15	1.73
	6	2	1	2	2	2		



### 3.4 Giving and wider national development

The survey sought to know the existence of a policy on philanthropy and giving practices in Tanzania. On this, the feedback was that 8 organisations (53%) indicated there is a policy on philanthropy whilst 7 (47%) others reported there is no policy.

Of those that indicated there was a policy in existence, 6 organisations (75%) reported that the policy creates incentives for giving while the other 2 (25%) reported that it does not.

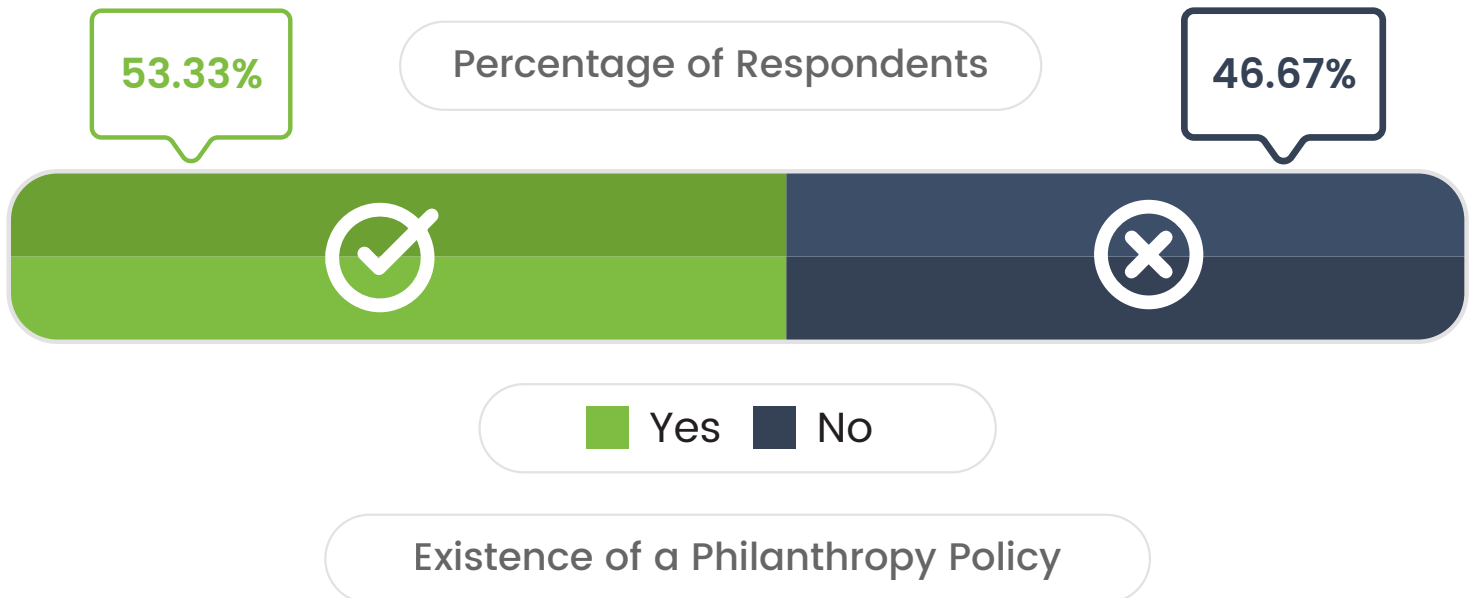


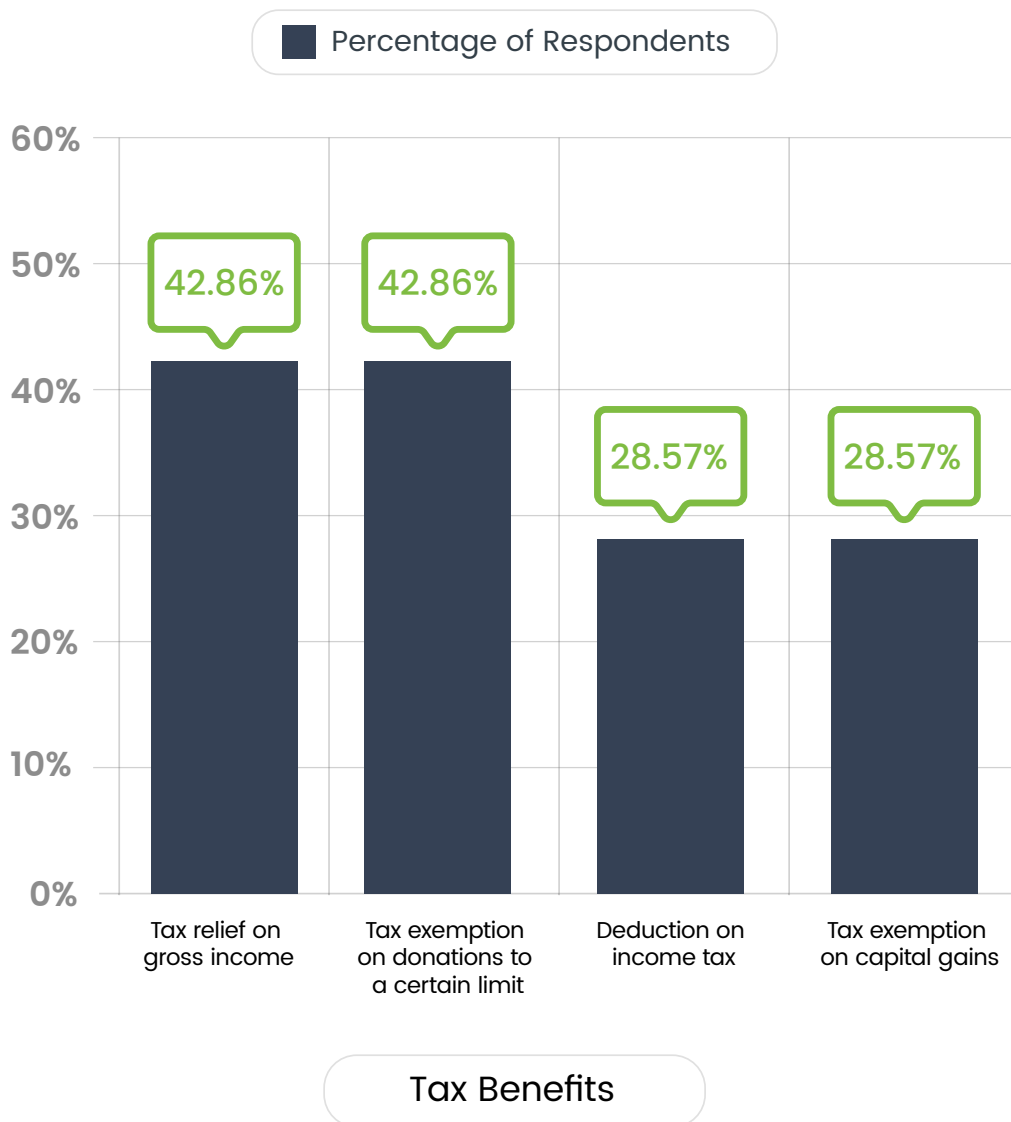
Figure 3: Does a philanthropy policy exist in Tanzania?

### 3.5 Raising and moving monetary resources

The survey sought to understand the existence of any tax benefits to individuals and corporates giving to philanthropy organisations. The results show that 7 organisations (47%) indicated that there were tax benefits for giving philanthropy organisations while 8 organisations (53%) said "... there were no benefits."



The 15 organisations that participated in the survey also indicated that there were various tax benefits. An equal number (43%) (3) of organisations indicated that they have a tax relief on gross income and a tax exemption on donations to a certain limit. 2 organisations (29%) said they benefit from deduction and income tax while the other 2 organisations (29%) said they benefit from Tax exemption on Capital Gains.



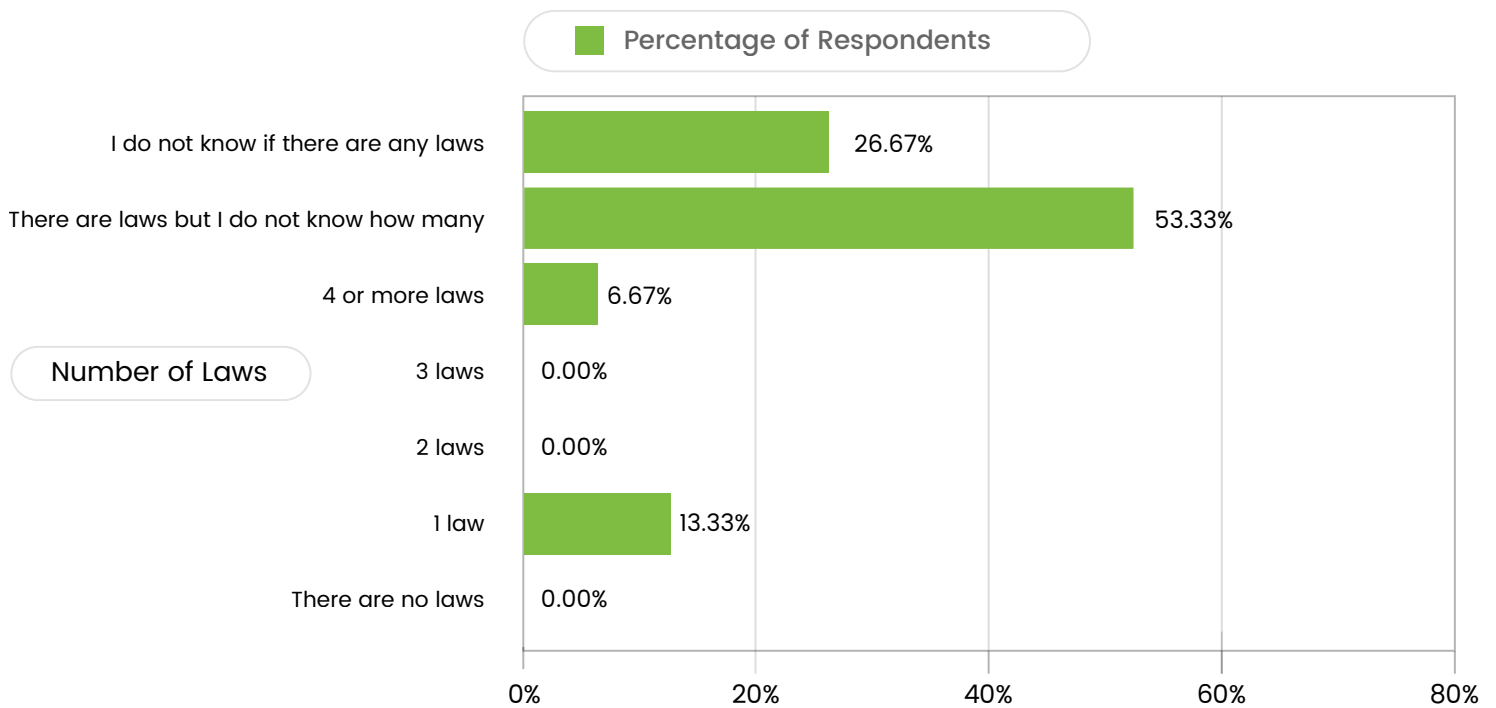
**Figure 4: Nature of tax benefits**

As far as the limitation of incentives is concerned, the opinion from the feedback was almost equally divided. Of the 7 respondents, 3 organisations (43%) said YES whilst 4 others (57%) said NO. When asked about the presence of a philanthropy promotional agency in Tanzania, 4 organisations (27%) said YES whilst the



majority of them, 11 organisations (73%) said NO. The discrepancy still shows variations in awareness.

The survey also sought to know the number of laws restricting the movement of money across the border; 2 organisations (13%) said there is 1 law, none (0%) said there were 2 laws, and none (0%) said there were 3 laws. Only 1 organisation (7%) said there were 4 laws or more and 8 organisations (53%) said there are laws they don't know how many. Lastly, 4 organisations (27%) said they do not know if there are any laws. The survey also sought to know the number of laws restricting the movement of money across the border. The majority (53%) indicated that there are laws but they don't know how many, and 27% reported that they didn't even know if there are laws that govern the movement of funds in and out of the country.



**Figure 5: Number of laws restricting the movement of money across the border**

Of the 73% who indicated there were laws governing the movement of funds across the borders also reported on the flexibility of laws. The majority of respondents 36%





(n=4) indicated that the laws are flexible enough to ease the movement of funds across borders while one organisation (9%) indicated they were extremely flexible.

On whether there are laws that regulate the movement of money within Tanzania; 1 organisation (7%) said there are no laws, 1 organisation (7%) said there is 1 law, none (0%) said there are 2 laws, none (0%) said there are 3 law, 1 organisation (7%) said there are 4 laws or more 6 organisations (40.0%) said there are laws but didn't know how many are there and 6 organisations (40%) said they didn't know if there are any laws.

On how the respondents rate the flexibility of the laws for movement of funds within Tanzania the feedback was that none (0%) rated the laws as extremely inflexible, 1 organisation (13%) rated the laws as inflexible, 5 organisations (63%) rated the laws as fairly flexible, 2 organisations (25%) rated the laws as flexible, and lastly, none (0%) rated the laws as very flexible.

### Percentage of Respondents

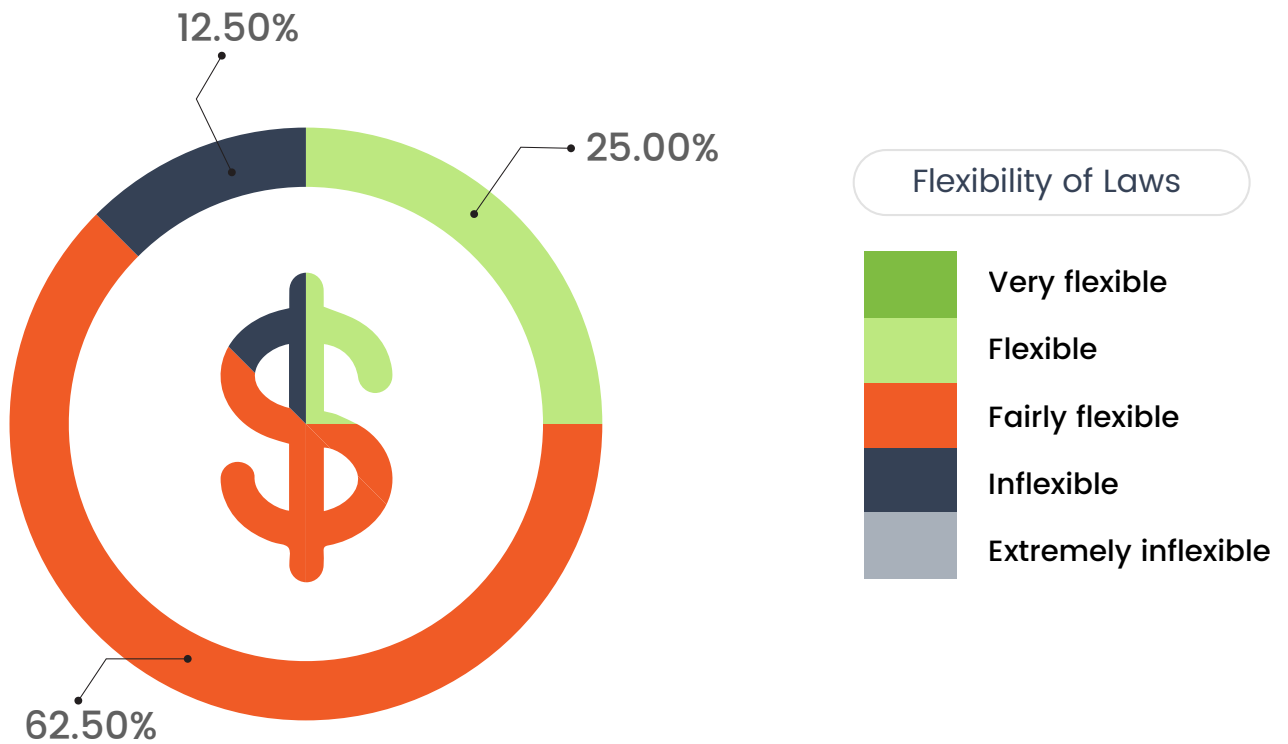


Figure 6: Flexibility of laws for moving money within Tanzania



On rates charged to make transfers outside the country, the response was that 8 organisations (53%) rated the charges to be high, 7 organisations (47%) rated the charges as fair, and none (0%) said the charges are low.

About rates being charged to make internal transfers within Tanzania the feedback was that 5 organisations (33%) said the charges are high, 9 organisations (60%) said the charges are fair and 1 organisation (7%) said the charges are low.

On whether CSOs are allowed to receive grants in the currency of origin (i.e. USD, Euro) the feedback was 12 organisations (80%) said YES whilst 3 organisations (20%) said NO.

### 3.6 Supporting advocacy-focused work

The survey sought to establish the number of laws restricting support/ funding for advocacy-focused work. In this, there were mixed responses as follows: 3 organisations (20%) said there are no laws, 1 organisation (7%) said there are 4 or more laws, 5 organisations (33%) said there are laws but they didn't know how many and 6 organisations (40%) said they didn't know if there are laws.



## 4.0. CONCLUSION

The Constitution of Tanzania guarantees fundamental freedoms such as the right to associate, assemble and organize. However, the 2019 Amendments of the Societies Act, Companies Act, the Trustees Incorporation Act, and the Non-Governmental Act severely restricted the freedom of CSOs to operate in the country. The hitherto definition of companies has been severely reduced as the Government forced many CSOs that were previously registered as companies limited by guarantee to cease being so and become NGOs.

Further, the NGOs face intrusive and micro-management oversight from the Registrar of NGOs. The requirement that NGOs must submit their grant agreements to the Registrar of NGOs for approval is an unnecessary requirement and may discourage potential donors and restrict the CSO from undertaking activities that the government dislikes.

To make the environment for CSOs to mobilize resources even harder, CSOs are subject to taxation for income received as grants and donations unless they have charitable status certificates from the Commissioner General of Tanzania Revenue Authority (TRA). The experience has shown that the application for charitable status certificates are rarely attended to and granted. Thus, most CSOs in Tanzania operate without such certificates and in the eyes of the law they are not charitable organisations.

The operating environment for CSO to explore philanthropy is unfavourable. The laws do not encourage individual employees to donate to CSOs as it does not grant them with deductions. Moreover, philanthropic organisations are not guaranteed tax exemption for grants they make to CSOs.

Overall feedback from the survey shows that most CSOs have inadequate knowledge of laws governing not just philanthropy but the sector as a whole. They do not have a common understanding of the legal framework affecting them and philanthropy as a whole. The discrepancy in feedback may be indicating a lack of common voice and disunity. This may make it hard for joint advocacy to reverse unfavourable laws that govern philanthropy and CSO sector as a whole.



## 5.0 RECOMMENDATIONS

- All CSOs and philanthropic organisations, legislators that have charitable institutions in the constituents and who see the imposition of tax on these institutions as affecting developments in their constituents need to come together to advocate against unfair taxation and regulations affecting them.
- The President of the United Republic of Tanzania has a CSO past. It is important to find an opportunity to meet with her and impress upon her the challenges that the CSOs are encountering needs an intervention to engender a functioning and a vibrant civil society in Tanzania.
- The legal regime governing CSOs and PSOs in Tanzania is not favourable and needs to undergo a major overhaul to enable the two to operate with more latitude without intrusive oversight by government.
- Mainstream CSOs should be conferred with charitable status upon their registration and should not be forced to apply for that status from the Commissioner General of TRA (Tanzania Revenue Authority).
- Donations and grants to CSOs should not be treated as income for taxation purposes and as they are not geared for profit but for the advancement of public interest.
- The Income Tax Act Cap 332 R.E. 2019 should be amended to remove the requirement of CSOs to apply for charitable status from the Commissioner General of TRA (Tanzania Revenue Authority).  
Individual and business donations to CSOs should be tax exempt.
- NGOs should not be required to submit their grant agreements to the Registrar of NGOs for approval nor should they be required to obtain the permission of district and regional authorities for project implementation rather they should be required to introduce their projects to those authorities for coordination and cooperation.
- Powers of government bodies to suspend and deregister CSOs should be curtailed and vest those powers to the Court of law upon which respective government officials who have anything against the existence of a CSO must file an application against it before the High Court.
- The amendment made to the Societies Act, the Companies Act, the Non-Governmental Organisations Act, the Trustees Incorporation Act in 2019 should be reversed so as to allow CSOs to register and operate freely.



## REFERENCES

ABC attorneys. Procedures of registering NGO in Tanzania, December 29, 2020.

Africa Philanthropy Network (APN) and Tanzania Philanthropy organisation (TPO). (August 2021). The synthesis of the existing assessments of the legal environment for civil society organisations including philanthropic support organisations in Tanzania.

NACONGO (National Council of NGOs). (2019). Application for renewal of registration certificate.

Tanzania Development gateway – registration and re-registration procedures.

Tanzania Human Rights Defenders (THRDC). (2020). Laws governing and regulating civil society in Tanzania.