



STATUS OF RESTRICTIVE PROVISIONS IN THE NEW STATISTICS AMENDMENTS OF 2019 AS COMPARED TO THE 2018 AMENDMENTS

A. Introduction

This analysis intends to highlight the gist of new amendment to the Statistics Act through the Written Laws (Miscellaneous Amendments) Act No.1 of 2019 while comparing to the previous LHRC analysis on the Statistics Act. In summary, the new law drives in a good bearing due to progressive introduction of provisions which promote Freedom of Expression in Tanzania through statistics.

In 24th August 2018 LHRC submitted its analysis before the Parliamentary Committee for Constitution and Legal Affairs following changes which were introduced in 2018 through the Written Laws (Miscellaneous Amendment) Act No.3 of 2018. The amendment introduced new definition of the term official statistics and replaced the term statistical information with official statistics.

The overall objectives of the 2018 amendments were;

a. To protect the usage of official statistics without authorization of the National Bureau of Statistics (NBS), with the underpinned justification of limiting distortion of official statistics.

b. Also, prohibiting dissemination or communication of any kind of statistical information without approval of the Statistician General. This requirement imposed strenuous environment for media and NGOs to conduct research basing on official statistics sources.

c. Consequently, a person or an organization was supposed to seek an authorization from the NBS before conducting survey or disseminating report which analyze official statistics. It is equivalent to conclude that, the process of securing permit of using or disseminating of report which inspects the official statistics was indistinguishable with the procedures of producing official statistics.

It was unequivocally right to say that, the 2018 amendments were in contrary to Article 18 of the Constitution of the United Republic of Tanzania 1977, Article 19 of the International Convention on Civil and Political Rights (ICCPR) 1966 and general principles stipulated under the African Charter on Statistics of 2009.

B. Status of Restrictive Provisions under the 2019 Amendments

On 30th June 2019 the Written Laws (Miscellaneous Amendments) Act No.1 of 2019 was assented by the President of the United Republic of Tanzania Dr. John into law. Amongst other things the law amended the following provisions which were violative in nature;

I. The amendment of contents of section 24A on the authorization from the NBS for using/analyzing and disseminating official statistics. However, the section was replaced by introduction of the Statistics Technical Committee which will be responsible for determination of matters referred to it.

Opportunity

It is open for media, CSOs or any other person to conduct desk review, research and survey by accessing and analyze official statistics sources and publish finally publish the report without authorization from NBS as opposed to the 2018 amendments.

II. The amendment of contents of section 24B on restriction of communicating to the public about any kind of statistical information without approval of the Statistician General. The provision was restructured by the enshrining right to collect and disseminate statistical information.

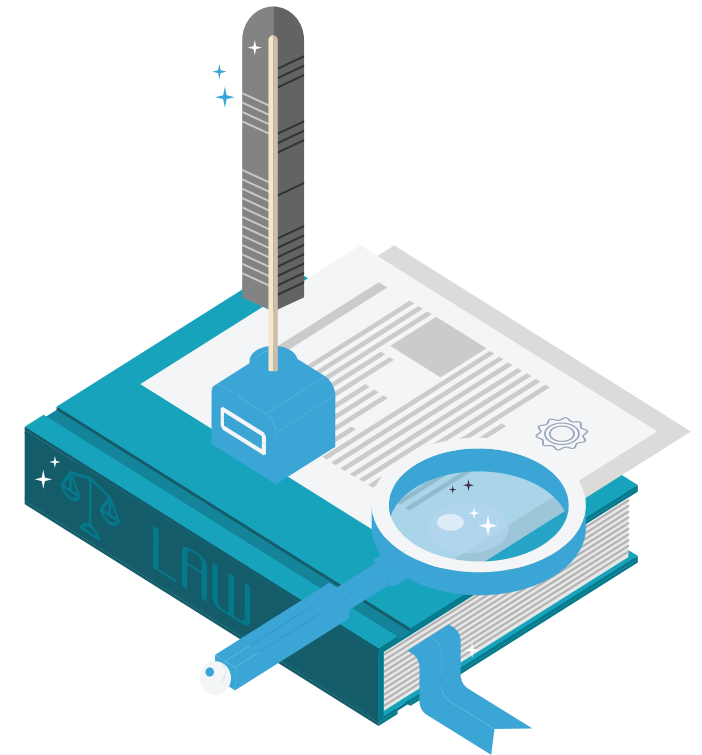
Opportunity

The law provides an opportunity for any person to collect and disseminate statistical information without requirement of getting authorization from the NBS. The law provides an enabling environment for research institutions, CSOs, Media and Academia to operate without restriction. Hence the amendments reduced bureaucracy and double authorization as was in 2018.

III. The amendment of section 37(4) on offence of communicating to the public any official or statistical information without proper authorization. This section was deleted by amendment of 2019 which removed liability of fine not less than ten (10) million shillings or to imprisonment for a term of not less than three (3) years.

Opportunity

The amendments assure the expansion of knowledge to Tanzania society as people and organizations will be encouraged to conduct and communicate finding of researches which are evidenced by statistical information.



C. Roles and Contribution LHRC on the Positive Changes of the Statistics Act

LHRC has utterly played a considerable role by providing its contribution to the development of the Statistics Act particularly the 2018 and 2019 amendments. The following were the direct initiative and intervention during the reforming process;

a. Producing and circulating analysis on the proposed amendment of the Statistics Act in 2018

Following the first reading 29th June of the Bill before the Parliament of the United Republic of Tanzania, LHRC responded by drafting and circulating the analysis to the public. The analysis was potential for duty bearer and like-minded organizations to put a joint effort to advocate for reforms. The document referred to local and international laws protecting freedom of expression one among other documents was the African Charter on Statistics of 2009 which is also reflected by citation in the new law.

b. Submission of LHRC recommendations to the Parliament of the United Republic of Tanzania

On 24th August 2018 LHRC its oral and written submission to the Parliamentary Committee for Constitution and Legal Affairs for public hearing in Dodoma. LHRC received invitation from the Parliament to appear on 24th August 2018 and provide opinion on the amendments. Despite the recommendations provided the law was passed without taking them on board. However, the law was reviewed for the second time before the committee in 20th June 2019 with LHRC presence.

c. Media Campaign to raise awareness

LHRC made use of media outlets to educated citizen and law maker on the negative implication of the Statistics Amendments of 2018, engagement with social media providers, Tv and Radio programs and Newspaper coverage played a protentional role to the changes.

d. Engaging judicial mechanisms

LHRC has filled a strategic litigation case in the High Court of Tanzania, Mbeya Registry challenging the constitutionality of section 37(4) of the Act which was later amended before the finalization of the case.

D. Conclusion

Despite the amendment was brought under the certificate of urgency with minimal public consultation at the legitimation stage, the statistic amendment provides a promising environment to the promotion of article 18 of the Constitution of the United Republic of Tanzania. However, the Statistic Technical Committee regulations should largely consult stakeholders before its adoption by the Ministry of Finance and Planning.



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