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info@mwebesalaw.co.tz

www.mwebesalaw.co.tz

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EDITOR'S NOTE – JANUARY EDITION

Dear Esteemed Clients, Stakeholders and Readers,

Happy new Year!

A new year always arrives with noise, new plans, new targets, new optimism. But beneath that energy sits a quieter, more uncomfortable truth: the legal environment we are stepping into this year is less forgiving, less sentimental, and far more demanding of precision than before.

This January edition meets that reality head-on. We begin with a question that many businesses ask too late: should this dispute really go to court? In this edition, we move away from the instinctive idea that success is measured by winning a case. Instead, we look at disputes as commercial events, ones that consume time, capital, leadership attention, and sometimes reputation. Litigation still has its place. But so does restraint. The real skill lies in knowing when the law is a tool, and when it quietly becomes a liability.

We then turn to a space where goodwill has, for too long, been mistaken for protection. Charity is not a shield confronts the growing exposure faced by NGO leaders in Tanzania. Compliance failures are no longer absorbed by the institution alone. Tax authorities, data regulators, and AML frameworks are now comfortable following the trail straight to boardrooms and individual decision-makers. This piece is written for leaders who want their organizations to survive scrutiny, attract credible funding, and avoid learning these lessons the hard way.

Finally, we take an uncomfortably honest look at local content in the mining sector. Our article asks whether the local content regulation, in its current form, is running ahead of local capacity, and what happens when compliance becomes structurally impossible rather than merely inconvenient. The conversation around fronting is often moralised. This article treats it as a systems problem, one that requires candour, technical honesty, and long-term thinking if meaningful compliance is to be achieved.

Across all three pieces, a single theme emerges: the era of informal decision-making is over. Whether you are running a business, sitting on a board, managing donor funds, or operating in a regulated sector, the margin for assumption has narrowed. The law now expects intention, documentation, and foresight.

As always, our commitment is not just to explain the law, but to interrogate how it actually works in practice, where it helps, where it strains, and where it quietly reshapes behaviour.

Thank you for reading, questioning, and growing with us. We look forward to the conversations this edition will spark in the months ahead.

Happy reading!
The Editorial Team
MWEBESA LAW GROUP

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SETTLEMENT OR LITIGATION? WHEN LEGAL STRATEGY BECOMES A BUSINESS DECISION.

1. Introduction

"Most clients ask their lawyers the wrong question". They ask: "Do we have a strong case? It is a natural question, but it is rarely the one that protects the business. The more important question the one that determines whether value is preserved or quietly destroyed is this: **At what point does this dispute stop being a legal problem and start becoming a business liability?**

In practice, both settlement and litigation can erode value if chosen at the wrong time. Litigation, even where success is likely, can drain cash, consume management attention, delay transactions, and expose the business to reputational risk. Settlement, if rushed or poorly structured, can signal weakness, encourage repeated claims, or result in the unnecessary surrender of enforceable rights. The risk lies not in the tools themselves, but in deploying them without a commercial lens.

This article offers a practical decision-making framework, not legal theory, to help businesses evaluate when settlement or litigation ceases to be a solution and becomes a liability. The analysis is grounded in Tanzanian legal practice and commercial reality, where disputes often evolve far beyond their original scope.

2. Conceptual Framework: Legal Strength vs. Commercial Value

At its core, the decision to settle or litigate marks the point where a legal dispute stops being just a courtroom issue and becomes a strategic business move. Litigation is no longer evaluated solely on whether a party can win on the law, but on whether pursuing that win makes commercial sense. In this context, legal strategy functions as a corporate tool, deployed to protect value, manage risk, and position the business for the future.

This decision emerges from the interaction of three key considerations. The first is legal viability, which speaks to the intrinsic strength of the case. This includes the quality and reliability of the available evidence, the clarity and enforceability of contractual obligations, and how closely the dispute aligns with prevailing judicial trends and precedents. A legally sound case improves leverage, but strength on paper does not automatically justify litigation if other dimensions point in a different direction.

The second consideration is commercial friction. Litigation consumes more than just legal fees; it quietly drains management time, diverts executive focus from growth and operations, and ties up capital that could otherwise be deployed strategically. It also carries exposure risks, particularly where court proceedings may force the disclosure of sensitive commercial information, trade secrets, or internal governance weaknesses. These hidden costs often outweigh the headline value of the claim itself.

Sitting between these factors is the company's risk appetite, which ultimately shapes how legal and commercial inputs are weighted. Risk-averse organizations tend to prioritize finality and predictability, even if that means accepting a settlement that is financially imperfect. By contrast, risk-tolerant businesses may choose to litigate to defend brand integrity, set a market precedent, or deter future opportunistic claims. Neither approach is inherently superior; the effectiveness lies in alignment with the company's broader strategy and tolerance for uncertainty.

The end goal of this framework is value optimization. The choice between settlement and litigation should maximize the firm's long-term value rather than deliver a narrow legal victory. Success is measured by how well the decision preserves operational continuity, safeguards financial position by balancing potential recovery against total cost, and protects reputational equity in the eyes of investors, partners, and the market. When viewed through this lens, the critical question is no longer **whether the case can be won, but whether the cost of achieving that victory is justified.**

2. Litigation as an Asset

While settlement is often commercially efficient, Tanzanian law clearly recognises that it is not universally sufficient. There are circumstances in which litigation is not only unavoidable but legally and strategically necessary. A balanced dispute-resolution framework must therefore acknowledge that the court process serves functions that settlement mechanisms cannot legally or practically fulfil.

First, litigation becomes necessary where coercive judicial authority is required. Settlement mechanisms, including negotiation, mediation, and conciliation, are inherently voluntary. They rely on the parties' willingness to engage in good faith and to comply with agreed outcomes. Where a counterparty is uncooperative, evasive, or acting in bad faith, settlement loses its effectiveness. In such circumstances, litigation provides access to the court's compulsory powers. Under the Civil Procedure Code, Cap 33 RE 2023, courts are empowered to issue binding orders, including temporary injunctions under section 78 and Order XXXVII, attachment before judgment under Order XXXVIII, and orders compelling appearance and compliance. These remedies are critical where immediate judicial intervention is required to preserve assets, restrain harmful conduct, or prevent irreparable commercial

damage, relief that settlement mechanisms cannot impose unilaterally. Second, litigation is strategically justified where legal finality and authoritative determination of rights are required. Unlike settlement, which resolves disputes by agreement without establishing binding legal interpretation, litigation culminates in a judgment that conclusively determines the parties' rights and obligations. This is particularly important where disputes involve contested contractual interpretation, statutory compliance, shareholder rights, or security interests. Tanzanian courts, through formal judgments, create legally binding outcomes that are enforceable as decrees under section 34 of the Civil Procedure Code. Where uncertainty itself poses a commercial risk, litigation becomes a necessary tool to obtain clarity and finality that settlement cannot provide.

Third, litigation becomes necessary where enforceability concerns outweigh the perceived certainty of settlement. While settlements are often praised for predictability, this assumes voluntary performance. Tanzanian law recognises that enforcement remains a central concern in dispute resolution. A court judgment carries automatic enforceability mechanisms, including execution proceedings under Order XXI of the Civil Procedure Code. By contrast, informal or improperly recorded settlements risk unenforceability. Although section 70(3) of the Civil Procedure Code allows properly recorded settlements to have the force of a decree, this legal protection only arises where the settlement is formalised in accordance with procedural requirements. Where a counterparty lacks credibility, assets, or a history of compliance, litigation may offer a more reliable path to recovery through structured enforcement mechanisms.

Fourth, litigation may be necessary where deterrence, precedent, or reputational protection is a legitimate business objective. Certain disputes have implications beyond the immediate transaction, particularly where repeated breaches, regulatory non-compliance, or opportunistic claims are involved. In such cases, settlement may resolve the present dispute but inadvertently encourage similar future conduct. Litigation, by contrast, produces a public and authoritative record that can deter future claims and reinforce compliance expectations. Tanzanian courts operate in open proceedings, and judgments form part of the public record, providing precedents that may be strategically valuable to businesses seeking to protect market position or regulatory standing.

Finally, Tanzanian procedural law itself implicitly acknowledges the necessity of litigation by treating settlement as complementary rather than absolute. While section 13 of the Civil Procedure Code and Order VIII encourage amicable resolution, they do not displace a party's right to access the courts. Settlement is promoted as a first step, not as a mandatory endpoint. The legal framework therefore anticipates that disputes may progress from negotiation to litigation as circumstances evolve.

Accordingly, litigation should not be viewed as a failure of settlement, but as a strategic escalation mechanism where legal compulsion, enforceability, precedent, or finality is required. An effective dispute-resolution strategy recognises that settlement and litigation are not hierarchical choices, but interdependent tools. The critical task for clients is to assess when settlement no longer serves commercial or legal objectives and when litigation becomes necessary to preserve value, protect rights, and manage long-term risk.

3. Litigation as a Liability: Lessons from Tanzanian Practice

3.1. Cost and Delay: The Structural Reality

In Tanzania, commercial litigation is time-intensive by design. Adjournments, interlocutory applications, and appeals are routine, and disputes often take on a life far longer than the transaction that gave rise to them. This reality was illustrated in Joseph Magombi v Tanzania National Parks (TANAPA)Civil Appeal No. 114 of 2016 [2021] TZCA 464 where the Court of Appeal dealt with a dispute that had stretched 19 years. The dispute arose from the appellant's termination in 1997 and was first filed as Trade Dispute Enquiry No. 67 of 2002 before the defunct Industrial Court, before progressing through the High Court (Labour Division) and ultimately to the Court of Appeal.

By the time the Court of Appeal delivered its ruling in September 2021, the matter had been in litigation for nearly two decades, having passed through multiple procedural stages. To avoid further injustice caused by prolonged litigation, the Court declined to strike out the appeal on technical grounds and instead allowed amendments and continuation of the proceedings in line with the overriding objective. However, the case underscores that sometimes a dispute is likely to outlive the usefulness of its subject matter.

3.2. The "Paper Judgment" Problem

Courts determine legal rights; they do not guarantee commercial recovery. Tanzanian jurisprudence consistently draws a distinction between the existence of a legal obligation and the practical ability to enforce it; a distinction many businesses only confront after judgment has been entered in their favour. The substantive case resolves liability; execution determines whether that liability can be converted into value.

This separation is well illustrated in Twiga Feeds Limited & Another v National Investment Company Limited (Civil Appeal No. 295 of 2021), where the Court invalidated a mortgage for failure to comply with statutory registration requirements but nonetheless upheld the underlying debt. Legally, the creditor succeeded. Practically, however, the collapse of the security stripped the judgment of its commercial utility, exposing the creditor to the realities of unsecured enforcement against a resistant or asset-light debtor.

Execution proceedings operate as a parallel and often more uncertain arena of litigation, introducing additional legal costs, procedural hurdles, and time delays. Where assets have been dissipated, security has failed, or debtors adopt evasive strategies, a judgment may remain enforceable in law yet ineffective in practice. From a business perspective, a judgment that cannot be translated into cash flow, asset recovery, or commercial leverage risks becoming a prolonged exercise in damage control rather than meaningful value recovery.

3.3. Management Distraction and Opportunity Cost

Commercial litigation rarely advances on documents alone. It demands sustained director-level involvement approving pleadings, giving instructions, producing historic records, and often testifying in court. Over time, disputes become management projects, diverting leadership from revenue-generating activity and strategic execution. High Court commercial disputes, particularly those involving shareholder control, joint ventures, or asset restrictions, frequently impose interim orders designed to preserve the "status quo". While legally necessary, these orders can constrain decision-making and disrupt operations. The longer a dispute persists, the more it silently taxes the business through lost opportunities, delayed investments, and managerial fatigue. If litigation consumes leadership bandwidth disproportionate to its realistic upside, it becomes a hidden tax on the business one that rarely appears in pleadings but is keenly felt in performance.

4. Settlement as a Strategic Asset (and Its Limits)

Settlement is often misunderstood as a sign of compromise or weakness. Properly deployed, it is a strategic asset. It allows parties to retain control over outcomes, manage risk, and resolve disputes swiftly and confidentially. Tanzanian procedural law, specifically the Civil Procedure Code Cap 33 Re 2023 gives settlement significant legal weight: once recorded by the court, a settlement has the same force and finality as a judgment.

Settlement also offers flexibility unavailable in litigation. Parties are not bound by rigid rules of evidence and can craft commercially sensible solutions that address underlying business concerns, preserve relationships, and enable continuity. For businesses that must continue dealing with counterparties, suppliers, distributors, or joint-venture partners this preservation of relationships is often invaluable. However, settlement becomes a liability where it is informal, poorly documented, or unenforceable. Unrecorded agreements may prove toothless if one party defaults. A settlement that sacrifices enforceable rights without adequate safeguards can be more damaging than a lost case. The lesson is not to avoid settlement, but to formalize it properly through court recording or agreed arbitral awards so that peace has legal teeth.

5. Conclusion

The choice between settlement and litigation is a question of timing, leverage, and proportionality. Settlement offers speed, flexibility, and risk control, but demands enforceable structure. Litigation provides authority, transparency, and coercive power, but carries heavy costs in time, money, and focus. Strategy becomes liability when decisions are driven by the desire to "win" rather than to protect enterprise value. A winnable case can still be a poor business decision if it drains resources and stalls growth. Conversely, a negotiated compromise may represent not weakness, but disciplined commercial judgment.

Commercial disputes should be managed as evolving business decisions, not fixed legal battles. Settlement is often the most effective tool where speed, cost control, and relationship preservation are priorities, while litigation becomes necessary where enforcement, legal clarity, deterrence, or judicial authority is required. The key is not choosing one mechanism over the other, but knowing when settlement adds value and when litigation is the more effective strategy. Sound dispute management lies in timing and judgment, deploying the right tool at the right stage to protect long-term commercial interests. Smart clients, with the help of their lawyers, periodically ask: **"Has this dispute crossed into liability territory for us? Is the next $10,000 in legal fees likely to bring a net benefit, or are we chasing good money after bad?"**

ANNEXURE

Practical Framework: A Client Decision Matrix

Ultimately, a client should weigh all these factors holistically. One way to visualize the decision is to create a simple comparison chart of the options – for example, "settle now" vs "continue litigating". Below is a generic example of such a decision matrix:

Factor	Settle Now (Early Resolution)	Continue Litigation (Trial/Arbitration)
Time spent	Short-term (weeks or months to finalize agreement).	Long-term (could be 1-3 years in Tanzania, even longer.
Legal Costs	Moderate and capped (negotiation and drafting settlement costs).	High and growing (court fees, extensive attorney hours, experts, etc.). However, if you win, you can recover your legal fees. If you lose, you may owe a portion of opponent's fees.
Outcome Certainty	Certain outcome (agreed terms) – no risk of losing since it's negotiated.	Uncertain outcome – could win full claim, a part of it, or lose entirely.
Potential Monetary Gain	Typically, a compromise: you receive (or pay) an agreed sum, often less than full claim but without further expense.	Best case: full damages awarded; Worst case: nothing (or have to pay opponent).
Enforceability	Usually immediate and agreed (settlement payment terms can be structured, easier to collect).	If you win at trial, enforcement could be challenging if the opponent has no assets or drags feet (appeals, etc.).
Confidentiality	High – settlements can be private, avoiding negative publicity.	Low – court proceedings are public record (could impact reputation).
Relationship Impact	Often can preserve or mend relationships (seen as mutual compromise).	Adversarial process strains or destroys relationships between parties.
Stress and Distraction	Reduced – dispute is off the table, business can refocus.	Prolonged stress for management; ongoing distraction with legal proceedings.
Future Liability	Resolved – usually includes no admission of liability and no future claims (settlement finality).	Case law outcome could set a precedent; if you lose, you might face new liability (e.g., other claimants emboldened, or penalty costs). If you win, could still face appeal.

IS LOCAL CONTENT PUSHING MINING UNDERGROUND? A HARD LOOK AT COMPLIANCE AND FRONTING

Introduction

Engagement with clients and sector stakeholders over the few months has brought to the surface a recurrent and increasingly pressing challenge in Tanzania's mining industry. What initially appeared as a compliance adjustment has now crystallised into a structural hurdle. Mineral right holders and foreign mining service providers alike are facing real difficulty in implementing the Mining (Local Content) Regulations, 2018 as amended in 2025, particularly following amendments that significantly tighten local content thresholds for mining services.

The 2025 amendments introduced a marked policy shift. A wide range of mining services are now restricted to companies that are 100 percent owned by Tanzanian citizens, removing the flexibility that previously existed through partial local participation or broader joint venture arrangements. In effect, services that were once accessible through structured technical partnerships and joint ventures with foreign technical providers must now, as a matter of law, be procured exclusively from fully locally owned entities. This article examines why compliance with these requirements has proven difficult in practice, how that difficulty is creating measurable fronting risk, and why the issue should be understood as a structural compliance problem rather than deliberate regulatory defiance. It is written primarily for mining right holders, foreign mining goods and service providers, regulators, and policymakers grappling with implementation rather than theory.

The regulatory shift and its immediate impact

The 2025 amendments introduced a clear policy hardening. Local participation is no longer a spectrum. For a wide range of mining services covered under a published list by the Ministry of Minerals, ownership must now be absolute. In practical terms, this has placed a substantial portion of technical mining procurement outside the reach of foreign technical providers, regardless of experience, equipment ownership, or safety track record.

For many operating mines, these restricted services are not peripheral. They sit at the core of mine safety, efficiency, and regulatory compliance. The immediate effect has been to expose a gap between regulatory expectation and available domestic capacity.

Intention of the new regulations

The intention of the law is clear and well-grounded. From the outset, Tanzania's local content framework has sought to ensure that mining activity translates into lasting domestic value. Skills transfer, capacity building, and the deliberate growth of Tanzanian service providers sit at the heart of this policy. Preference for local suppliers is not merely based on economic considerations, rather it is based on national development and sovereignty in line with longstanding government policies.

However, law does not operate conceptually only, it also operates in operational environments like in mines, processing plants, laboratories, and in engineering rooms. It is at this level that the tension emerges.

The technical services gap reality

Modern mining is deeply technical in nature and depends on highly specialised technical services that are not easy to replicate or substitute. Beyond routine operational support, mining projects depend on specialised services that require years of experience, proprietary technology, advanced equipment, and internationally benchmarked expertise. These include, among others, advanced geotechnical engineering, metallurgical optimisation, specialised laboratory analysis, mine planning and modelling, geophysical surveys, and original equipment manufacturer maintenance for complex plant and machinery.

To illustrate the gap, we can consider advanced mine planning and modelling. This work typically relies on proprietary software, decades of accumulated geological data, and senior engineers with global and local operational exposure. The service is not merely labour intensive. It is knowledge intensive, capital intensive, and system dependent. While Tanzanian firms continue to grow, many do not yet possess the full combination of software licences, senior technical personnel, historical datasets, and international certifications required to independently deliver this service at scale.

A further illustration arises at the exploration and sampling stage. Accurate exploration data depends on disciplined sampling methodologies, calibrated equipment, chain of custody controls, and laboratories capable of producing statistically reliable results. In practice, deficiencies frequently arise at the local level. Sampling is sometimes conducted inconsistently, sample sizes are inadequate, or so-called sandboxes and composite samples are prepared without proper protocols, rendering the resulting data unreliable or void for decision making purposes.

As a consequence, mining companies are often compelled to export samples abroad for re testing, verification, or full analytical work using specialised machinery and laboratories with the capacity to deliver reproducible results suitable for long term mine planning and equipment utilisation. The limitation is not from a lack of effort always, but commonly from a lack of infrastructure, specialised equipment, quality assurance systems, and accumulated technical experience. Until these gaps are addressed, locally generated exploration data often cannot be relied upon independently for feasibility studies, reserve estimations, or even the optimisation of processing machinery to last the life cycle of the mine or at least significant periods of it.

The practical reality confronting many right holders is that local market capacity in several of these technical areas remains limited. While Tanzanian companies continue to grow and develop, many do not yet possess the depth of proficiency, systems, certifications, or track record required to competitively and reliably supply certain mining services.

Effectively affecting the market participation drastically, according to figures cited by the Minister of Minerals, local procurement in the mining sector increased from 62 percent in 2018 to 88 percent in 2024, reducing the share of procurement accessible to foreign companies from 38 percent to 12 percent, despite overall growth in sector spending.

This contraction has particularly affected specialised foreign technical service providers, many of whom are now restructuring their participation by shifting from service provision to local manufacturing, as illustrated by the development of the Kahama Industrial Park at the former Buzwagi mine site, which is intended to host multiple mining related manufacturing facilities, including explosives through Tanzanian entities backed by foreign capital and technology.

When compliance pressure creates fronting risks

It is within this gap between regulatory expectation and market reality that compliance risks emerge.Undoubtedly, right holders remain dependent on these technical services to operate safely, efficiently, and in accordance with international standards. Faced with restricted procurement pathways, some operators begin to deliberate whether compliance must be navigated creatively rather than strictly. This is where the concept of fronting enters the conversation.

Under Tanzania's local content framework, fronting refers to arrangements intended to conceal the true nature of ownership, control, or capability, so as to present a company as an indigenous Tanzanian entity when, in substance, it is not. Typically, this involves inserting a Tanzanian individual or company into a contractual or corporate structure to give the appearance of compliance, while technical control, decision-making, and economic benefit remain elsewhere.

The law treats fronting with severity. It is not characterised as a technical breach or administrative oversight, but as deliberate misrepresentation. Both the party acting as a front and those who connive in such arrangements are exposed to regulatory sanctions and criminal liability.

Yet, despite the risks, the pressure created by the technical skills gap means that some right holders are tempted to operate in this grey zone. The objective is often not to undermine local content policy, but to reconcile two competing imperatives: remaining operationally viable while appearing compliant with a tightening legal framework.

How fronting actually works in mining services: a realistic case study example

In practice, fronting in mining rarely relies on a single mechanism. It is usually achieved through a combination of lawful looking structures, drawn directly from the categories discussed in concealed ownership frameworks.

A typical example unfolds as follows; A mining right holder requires advanced metallurgical services that no local firm can independently provide at the required level. A Tanzanian company is incorporated and presented as the service provider. On paper, it is 100 percent locally owned and satisfies the local content rules.

However, the technical reality is structured differently. First, the specialised equipment and proprietary software required for the service are owned by a separate offshore equipment leasing vehicle. The Tanzanian company leases this equipment at seemingly commercial rates but cannot operate without it. Asset dependency ensures control over the company without actual ownership.

Second, a technical services agreement is entered into with a foreign affiliate of the leasing entity. This agreement assigns all substantive technical decisions, methods, and quality assurance to the foreign provider, while the local company acts as the contracting interface.

Third, economic value is extracted through layered contracts. Management fees, technical consultancy fees, and software licence fees flow offshore, leaving the local company with limited margin despite being the formal service provider.

Fourth, governance control is reinforced through side arrangements. The foreign technical provider holds veto rights over staffing, methodology changes, and client engagement through private contracts not disclosed to regulators. On paper, the mining right holder has contracted a fully local company. In substance, control, assets, and economic benefit remain offshore. Each individual instrument is legally recognisable. Taken together, the structure defeats the purpose of the local content regime and exposes all parties to fronting liability. This is precisely the type of

distributed control structure described in concealed ownership structures, where no single document is false, but the overall architecture is misleading.

Who really drives fronting pressure and how local providers fall into fronting

It is important to be precise about incentives. In many cases, fronting pressure does not originate from right holders alone. It often arises from foreign technical providers seeking to preserve market access, combined with right holders seeking operational continuity. Local companies, particularly newly incorporated ones, may be drawn into these arrangements not as primary architects, but as vehicles inserted into structures they do not fully control. Understanding agency is therefore important, because enforcement responds to the nominal participants rather than targeting structure designers and economic beneficiaries.

The compliance challenge as a structural issue

It is important to frame this issue correctly. The emergence of fronting risks in the mining sector is not primarily a matter of bad faith. It is a compliance challenge rooted in structural constraints. Where regulation moves faster than capacity development, the market responds imperfectly. For regulators, the task is to enforce the law without eroding confidence in the sector. For right holders, the task is to resist short-term solutions that create long-term exposure. For policymakers, the challenge is to align ambition with implementation pathways that allow genuine skills transfer to occur without disrupting essential mining operations.

Looking forward

Local content remains a cornerstone of Tanzania's mining policy, and rightly so. However, sustainable compliance will depend on recognising and addressing the technical services gap that currently exists. Structured exemptions, phased implementation, targeted capacity-building partnerships, and transparent engagement with regulators may offer lawful alternatives to informal and risky workarounds.

The real work lies in building compliant structures that acknowledge present limitations while actively contributing to the long-term objective the law seeks to achieve. Until that balance is struck, local content compliance in mining will remain one of the most complex and sensitive regulatory issues facing the sector.

Conclusion

Local content remains a cornerstone of Tanzania's mining policy, and its objectives are legitimate. However, unresolved tension between regulatory ambition and technical reality creates compliance risk, delays projects, undermines investor confidence, and threatens operational safety.

Fronting is not a disease, it is a symptom. Until legal frameworks meaningfully accommodate the realities of technical service delivery, local content compliance in mining will remain one of the sector's most complex and sensitive regulatory challenges.

CHARITY IS NOT A SHIELD: THE COMPLIANCE RISKS PUTTING NGO LEADERS ON THE HOOK

Tanzanian NGOs are now exposed to direct regulatory, tax, data protection, and anti-money laundering enforcement that can pierce the corporate veil and attach personal financial liability to board members and senior management. This article highlights the most common compliance failures, from expired registrations, undeclared funding and unpaid payroll taxes to weak internal controls, and sets out immediate steps NGO leaders must take to remain operational, fundable, and legally protected.

2026 Pull-Out Box: What Every NGO Leader Must Know

1. First, the corporate shield is no longer guaranteed. Members and Senior managers can be held personally liable for unpaid taxes, AML breaches, and regulatory failures, including seizure of personal assets.
2. Second, data is now a regulated asset. Non-compliance with the Personal Data Protection Act attracts administrative penalties of up to TZS 100 million, an amount that exceeds the annual operating budgets of many NGOs.
3. Third, funding is now a regulated activity, not a private internal matter. Large or undisclosed donations expose NGOs to suspension, audits, and money-laundering investigations.
4. Fourth, charitable status is not automatic. Until an NGO secures a formal Charitable Status determination from the Tanzania Revenue Authority, it is treated as a taxable commercial entity.

Below we unpack where NGOs most commonly fall short and explain how ordinary operational decisions now trigger statutory duties with personal consequences. Understanding these fault lines is the first step to protecting both the organization and the individuals who lead it.

Registration:
Don't let your legal status expire

The most basic and most dangerous governance failure among NGOs is treating registration as a one-time event instead of a continuous legal obligation. Under Section 17(3) of the Non-Governmental Organization Act [Cap. 56 R.E. 2023], an NGO registration certificate is valid for ten

years and must be renewed at least six months before expiry. Failure to renew renders the organization legally non-existent. Contracts signed, funds received, and operations conducted after expiry are exposed to challenge, and decision-makers risk personal liability for acting on behalf of a non-entity. In addition, Section 8A empowers the Registrar to review whether an organization genuinely operates for public benefit. NGOs that function as private trusts or de facto commercial entities are now routinely issued migration notices and given two months to re-register under the appropriate legal framework or face de-registration.

Mandatory Reporting:
The compliance obligation most NGOs ignore

Beyond registration, the NGO Act and its Regulations impose ongoing reporting duties that are non-negotiable. Under Section 31 of the NGO Act, every NGO must prepare annual audited financial statements and publish a summary in a newspaper of wide circulation. Failure to publish is a statutory breach that can trigger regulatory sanctions.

Further, the Non-Governmental Organizations Regulations require NGOs to submit quarterly implementation reports and annual performance reports to the Registrar. These filings allow the regulator to monitor whether activities remain aligned with approved objectives. Persistent non-reporting is now treated as evidence of governance failure and misalignment with approved objectives.

Tax Compliance:
The "Not-for-Profit, No-Tax" Myth

The assumption that charitable intent equals tax exemption is one of the costliest misconceptions in the NGO sector. Under Section 64 of the Income Tax Act, an NGO is treated as a regular taxpayer unless and until the Commissioner General issues a formal Charitable Status rulling. Without it, surplus funds at year-end are taxed at the standard 30% corporate income tax rate, and full withholding tax obligations apply.

Payroll taxes are even less forgiving. The Skills and Development Levy, imposed under Section 14(1) of the Vocational Education and Training Act, applies to every employer with ten or more employees. The rate is 3.5% of gross monthly payroll, and charitable status does not automatically confer exemption. TRA audits routinely go back five years, with interest and penalties often doubling the original liability. Section 76 of the Tax Administration Act [Cap. 438 R.E. 2023] fundamentally changes the risk profile for NGO leadership. Where an NGO fails to pay tax, every person who was a member at the time of default is jointly and severally liable. This allows the TRA to pursue personal assets, including homes and vehicles of members.

Funding Transparency:
When money triggers mandatory disclosure and approval

Funding is where many NGOs unknowingly cross from non-compliance into enforcement territory. Under the Non-Governmental Organizations (Amendments) Regulations, 2018 (GN No. 609 of 2018), fundraising and funding receipt are regulated events. Regulation 12 requires NGOs to disclose fundraising activities within fourteen (14) days of completion. The disclosure must state the source of funds, amount received, purpose of the funds, and intended activities, and must be made to the Registrar, the NGO's governing organs, stakeholders, and the public.

Where funding is substantial, the obligations escalate sharply. Regulation 13 applies where an NGO receives funds exceeding TZS 20 million. In such cases, the organization must publish bi-annual disclosures of funds received and expended in a newspaper of wide circulation or other accessible media. Critically, all donor contracts or grant agreements must be submitted to the Treasury and the Registrar within ten (10) days of execution for approval, and any cash or in-kind resources must be declared before expenditure. This framework removes discretion from Management. Large grants, particularly foreign funding cannot be quietly absorbed into operations. Undeclared or unapproved funding is now routinely treated as concealment, triggering AML scrutiny, targeted audits, suspension of activities, or de-registration.

Funding, AML, and the Ten-Year Paper Trail

NGOs are now classified as Reporting Persons under the Anti-Money Laundering Act [Cap. 423 R.E. 2023]. Section 17 requires retention of donor agreements, bank statements, and transaction records for at least ten years. Failure to produce records on demand is an offence that carries criminal consequences, not just administrative fines.

Data Protection:
The TZS 100 million exposure

The Personal Data Protection Act [Cap. 44 R.E. 2023] applies fully to NGOs. Mandatory registration with the Commission, appointment of a Data Protection Officer, and implementation of security safeguards are baseline requirements. It does not end there, NGOs are classified as Data Controllers by default. This means they carry primary legal responsibility for how data is collected, why it is collected, where it is stored, who accesses it, and how long it is retained. Informal data handling, WhatsApp lists, shared Google Drives, unsecured laptops, or donor-managed databases, now constitutes unlawful processing if not governed by documented controls.

Second, NGOs are required to embed data protection by design and by default. This includes adopting written data protection policies, data retention schedules, access control protocols, breach response procedures, and staff confidentiality undertakings. Compliance is not satisfied by intention or good faith, regulators assess whether systems existed before a breach occurred.

Third, the Act imposes heightened obligations for sensitive personal data, which NGOs routinely handle. Health data, children's data, disability status, biometric identifiers, and socio-economic vulnerability information require explicit prior written consent, strict purpose limitation, and enhanced security safeguards. Implied consent, donor consent, or community-level approvals are legally insufficient.

Fourth, NGOs must manage data sharing and cross-border transfers. Sharing beneficiary data with donors, implementing partners, consultants, or foreign headquarters requires documented legal justification, contractual safeguards, and a permit from the Personal Data Protection Commission prior to sharing of the data. Casual donor reporting that includes identifiable beneficiary data is now a compliance risk.

Fifth, NGOs must maintain audit-ready records of processing activities. This includes documenting what data is held, the legal basis for holding it, retention periods, and security measures. In enforcement actions, the absence of records is treated as evidence of non-compliance, even where no breach has yet occurred.

Enforcement powers under the Act are broad. The Commission may conduct inspections, issue binding compliance orders, impose administrative penalties of up to TZS 100 million, suspend processing activities, and recommend criminal prosecution for unlawful disclosure. Individual officers may be held personally liable where negligence or wilful disregard is established.

Immediate Action Checklist (Non-Negotiable):

Rate your organization: Give yourself one point for every "Yes" answer.

- Is our registration certificate more than six months away from its expiry date?
- Do we have an official Charitable Status ruling from the Tanzania Revenue Authority?
- Are we consistently paying the 3.5% percent Skills and Development Levy?
- Have we registered our organization with the Personal Data Protection Commission?
- Have we officially appointed a qualified Data Protection Officer?
- Do we obtain explicit written consent for all beneficiary data we collect?
- Can we produce all donor contracts and financial records dating back to 2018?
- Does our board include at least one legal professional and one accounting professional?
- Do we have a Segregation of Duties policy where no single person controls all cash?
- Have we published our annual financial report in a national newspa per of wide circulation?

Score Interpretation:

Nine to Ten Points:

Strategic Partner. You are grant-ready and considered low-risk by international donors.

Six to Eight Points:

Vulnerable. You have governance gaps that could lead to significant administrative fines.

Below Five Points:

High Risk. Board members face immediate personal liability. Conduct a professional compliance audit immediately.

Conclusion

The regulatory environment for Tanzanian NGOs has shifted decisively. Governance failures are no longer absorbed by the institution alone; they now follow decision-makers personally. NGOs that wish to remain operational, credible to donors, and legally protected must adopt the discipline, controls, and transparency expected of regulated financial institutions. Strong governance is the price of survival.

MWEBESA
LAW GROUP

DAR ES SALAAM (HQ)

House No. 113, Plot No. 948,
Chole Road, Masaki
P. O. Box 23077
Dar es salaam, Tanzania

ZANZIBAR BRANCH

Block 024, Plot No 55
Mbweni Road, Mazizini, Unguja
Zanzibar, Tanzania

For more information:

Phone: +255 767 348 716 / +255 742 812 125
+255 716 955 304

Email: info@mwebesalaw.co.tz

www.mwebesalaw.co.tz

Mwebesa Law Group