

## Annex: A Clause by Clause Analysis Matrix

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
Memorandum				
Long title				
Clause 1	No concerns with the provision			
Clause 2	No serious concerns with the provision		However, Board may inform NGOs upon commencement of the Act	
Clause 3	Definition of ‘community based organization’ provides that it is a “Non-Governmental Organization” operating at Sub county level and below...’ Using the definition without focusing on incorporation means all NGOs working at sub county level are potentially CBOs. This makes every CBO registered under the Act (or the regulations made under the Act) an NGO. This causes confusion between the two entities		CBO should be defined as an organisation registered under this Act at the District or Sub county level	To remove ambiguity in the phrasing
	The interpretation of “continental organization”, “foreign organization” and “indigenous organization” focuses on organizations incorporated outside the East African community and wholly or partially controlled by persons who are not citizens of East Africa. The Bill does not define in precise terms what “control” means. The interpretation seems to make an organization incorporated outside East African Community, by citizens of East Africa a Ugandan organization!		Modify the phrase by deleting the phrase “....partially or wholly controlled by citizens of one or more African countries, other than the citizens of the partner states of East African Community....”	To remove the ambiguity created.
	Interpretation of dissolution limits dissolution to voluntary and order of the board and leaves out court which should be the main player in dissolution		Make interpretation of dissolution to “Dissolution” means cessation of operations of an organization in accordance with this Act or by Court Order.	To avoid ambiguity and specifically provide for power to involuntarily dissolve an organisation rests in Court
	Interpretation of “each region or Uganda” doesn’t look good drafting to define “each” the definition can limit itself to regions of Uganda. We also have Northern and Greater north that includes West Nile and Karamoja. The law needs to be clear on which regions are actually being referred to. Besides the confusion, the some regions may be too big to administer		Delete interpretation. The NGO Board is incorporated and can open offices anywhere in the country.	
	Interpretation of “foreign organization” provides that it is an organization that does not have “original incorporation in any country” this situation cannot arise since there can never be an organization not registered or incorporated anywhere		Modify the definition to read an organisation registered and operating in Uganda	To remove ambiguity in the clause

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	Interpretation of “organization” limits the role of NGOs to “voluntary grouping” that provides “voluntary services” and limits them to education, literacy, scientific, social or charitable services. It should be noted that the work of NGOs goes beyond voluntary services. The definition does not meet the definition provided for under the NGO Policy		Adopt the definition set out in the NGO Policy.	A more accurate definition of NGOs is necessary
Clause 4	The objectives set under clause 4 do not come out in the Bill. The Bill focuses more on monitoring and control as opposed to promoting these objectives. For example there are no clauses to achieve objectives (a), (g) and (h)		Revisit the clauses to meet the objectives set out in clause 4	To enable the law achieve its intended objectives
Clause 5	Provisions for the establishment of the board and making it a body cooperate are good in as far as empowering the board to do its work.			
Clause 7(1)	The clause is good in as far as giving the board powers is concerned. However we note the use of heavy language.  The clause gives the board powers to give disciplinary action that the board deems fit. This is against the right to fair hearing which requires a punishment to be defined before the law is made.		The section should be amended to read “In exercise of its powers, the Board may ...’ Delete subsection iii, iv and v.	To remove negative language that focuses on curtailing rather than enabling. Remove possibility of unconstitutional abuse of power.
7 (c )	Too broad and arbitrary		Clarify the limits of the services to be charged. Fees should be prescribed as in regulation.	Remove too much discretion
	The provisions of clause 7(1)(b) and 7(2) are misplaced in as far as they do not provide for a systematic approach for discipline of NGOs. The law gives the Board powers to make complaints, investigate and take decision. The board should have powers to investigate and table evidence before the tribunal which should make a decision. The law should also provide for members of the community or any other person to make a complaint to the tribunal.		The law should provide for an independent tribunal or disciplinary committee as an independent part of the Bill. Establish a new Part X titled “Complaint handling” this part should have the following clauses 1. A clause establishing a tribunal to hear complaints 2. A clause providing for membership of the tribunal 3. A clause providing for independence of the tribunal and its running.	To remove constitutional challenges that may arise from the provisions and ensure separation of powers as well as checks and balances
Clause 8	No concerns with provision			
Clause 9	The composition of the board has no representative from NGOs or a person with experience in the NGO sector.		The Bill should provide for a clear presentation for the NGO sector. Such	

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
			a provision should provide for how such a person should be selected. We propose the NGOs nominate candidates who are then forwarded to the Minister for appointment.	
	Clause 9(6)(d) makes it easy to remove a board member on a basis of a criminal offence. Whereas removal of a person on the basis of a criminal offence is normal practice, similar clauses providing for this limit the nature of offences to those requiring imprisonment only.		Being convicted of a criminal offence per se should not be used to remove a person from the board. This should be only when the person has been convicted of an offence that amounts to a felony.	To remove the possibility of discrimination and abuse based on conviction for simple offences.
	The section should also provide for bankruptcy or conviction on offences of moral servitude as a ground for removal of a member of the board		The Bill should provide that a person convicted of an offence of moral servitude in the last 10 years should not be a member of the board or should be a basis to be removed from the board.	To remove the possibility that an undischarged bankrupt can be appointed on the board which is a practice with all other laws
Clause 10	No concerns raised on provision			
Clause 11(1)	No concerns raised on provision			
Clause 11(2)	The functions of the board of directors registering NGOs seem to be more a function of the technical group. Ordinarily the technical team should be the one considering applications should be a role of the technical team		Delete clause 11(2)(a), (b) and (c) and shift it to the role of the board. The Board of Directors should only make policies on how this should be enforced and handle appeals of applications which have been rejected by the technical staff.	Best Practice
Clause 13	No concerns raised on provision			
Clause 14	No concern raised on provision			
Clause 15	No concerns raised on provision			
Clause 16	The provision is ambiguous		Amend 16 (4d) to read ' any other lawful reason'	The term "deems it fit" is ambiguous
Clause 17	No concerns raised on provision			
Clause 18	No concern raised on provision			
Clause 19	The provisions on opening of regional offices is redundant, the board should be given powers to determine her own administrative offices and where to locate them as it is with all other bodies in Uganda		Delete clause 19 in line with amendment to the interpretations section.	To avoid limiting the board to regions only created by law.
Clause 20	The composition of the District Non-Governmental Organization Monitoring Committee (DNGMC).		Replace the RDC with the CAO	RDCs are not best placed for this role. Also create

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	- The provisions of this clause is in conflict with the NGO policy which provides that such entities should be headed by the CAO			harmony between the NGO Law and Policy
	Clause 20(4)(e) the role of the district council and the relationship between the district council and the DNGMC is not clear. Basically district councils do not register NGOs and have no apparent role in the Bill.		Delete clause 20(4)(e)	
	Clause 20(4)(a) the provision on considering applications for CBOs does not necessarily give the DNMC powers to register CBOs at the district.  The fact that CBOs will now be registered by a body that sits once in a while means it will take longer for CBOs to be registered, this not only curtails the right to associate but also denies the community service that CBOs would be providing.		Registration of CBOs should be left to the technical officers such as the CAO and, or the CDO and the DNMC does only monitoring roles.	To remove the possible violation the clause may bring
Clause 21	Under clause 21(2) the RDC chairs the sub county NGO Monitoring committee. The RDC therefore chairs the committee at sub county level and at district level and yet the SNMC reports to the DNGMC effectively the RDC reports to himself.		Remove the RDC from chairing the SNMC, they should be chaired by the Community development officer	Ensure harmony between the NGO Law and Policy
	There is a duplication of roles between the functions of the SNMC and the DNMC under clause 21(3). Besides the law seems to be creating too many unnecessary monitoring groups. The role of the SNMC can be effectively implemented by the DNMC since the districts as we have them today are smaller and easily reached		Remove the SNMCs and leave the monitoring at district level	To reduce on bureaucracy and improve service delivery  To remove duplication of work and resource wastage
	Clause 21(3)(a) makes the process of registration of CBOs very difficult as they have to go through a two level vetting before they are registered. The two levels are unnecessary and the vetting is done by mainly non-technical people. Registration of CBOs should be at the district		Delete sub clause(a)	
	Among the functions of the SNMC is “to provide CBOs in the sub county with guidelines to enable them effectively participate in the implementation and monitoring and evaluation of programmes” this looks like each sub county has its own policy separate and distinct from the policies of the district and the policies of the central government which is not true. CBOs should implement their own programmes and, or contribute to government policy.		Delete clause 21(3)(c)	The clause is irrelevant and may bring conflicts with the district.
	The use of the word “advise” in clauses 20(4)(e) and 21(3)(b) have a			

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	potential of causing a conflict between the District Council and the DNMC (in case of 20(4)) and the DNMC and the SNMC. "Advise" suggest that the body advising the other has more powers.			
Clause 22	No concerns raised on provision			
Clause 23	No concerns raised on provision			
Clause 24	No concerns raised on provision			
Clause 25	No concerns raised on provision			
Clause 26	No concerns raised on provision			
Clause 27	The initiative is good but how will it be implemented? Bill should specify the purpose of the Fund so that it Is not misused or abused.		An autonomous body should also be created to manage the Fund since it should not be the function of the NGO Board.	The Board as a Regulator is not best placed to manage such a facility.
Clause 28	No concerns raised on provision			
Clause 29	No concerns raised on provision			
Clause 30	No concerns raised on provision			
Clause 31	There is confusion between "incorporation" and "registration under clause 31.It is not clear from the law whether the different registrations in the Bill will take the same form. For example the types of registration in the Bill include a. Registration to start an organization b. Registration of a self-regulating body under clause 34(2) c. Registration of affiliate organization under clause 43 d. Registration of existing organizations under clause 51 The clause for registration does not differentiate the different forms in the different clauses. This may result into multiple registration and sometimes unnecessary registration.		Provide for different forms of registration since the needs for the organizations are not the same	
Clause 31(2)	There is a likelihood of conflict and confusion on reserving of names between the Board under clause 31(2) and the Registrar of Companies under the Companies Act (as well as the Uganda Registration Service Bureau). In the long run we may have companies and NGOs having the same names and this may confuse the public		Delete clause 31(2), and replace it with a clause requiring the reservation of the names to be done by the Uganda Registration services bureau.	To remove ambiguity and possible conflict the clause will create in feature
	Clause 31(3) should be deleted as a consequential amendment to clause 31(2) above		Delete clause 31 (3)(a)	To ensure harmony between the law
	Clause 31(4)(a) prohibits the registration of an organization if its objects are in conflict with the law. It should be noted that in a free democratic society individuals are allowed to oppose the law and this is a civic duty guaranteed to citizens under article 38 of the Uganda		The clause should be amended to limit itself to criminal acts.	To meet the requirements of article 38 of the constitution

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	Constitution.  This clause undermines the work of advocacy NGOs who focus on legislative reforms through challenging laws considered unconstitutional.			
	Clause 31(3)(d) provides that an organization shall not be registered if it is in public interest not to register it. The Bill does not provide a clear definition of public interest. This may be abused as several organizations may be refused registration		Provide a clear definition of what amounts to public interest in relation to the NGO sector and in relation to registration.	Avoid arbitrary discretion
	Clause 31(3)(e) gives the Board excessive powers to refuse registration of NGOs. It provides that the board can find any reason it deems relevant and refuse to register an NGO. This is arbitrary and can be abused. The clause gives the board too much powers that may hinder the operation of freedoms of expression, movement and association.		Delete clause 31(3)(e)	
	Clause 31(5) confuses “certificate” and “permit”. At present the law does not provide for a certificate of incorporation for NGOs  A confusion arises from the purpose of the permit and the role of the DNMC and SNMC. If the permit is meant to allow an NGO operate in a certain jurisdiction, what will be the purpose of decisions by the DNMC and SNMC. For example clause 20(4) talks about the DNMC hearing appeals from decisions of SNMC but there seems to be no processes for hearing of making decisions other than making reports from the SNMC.		The Bill should separate certificate of incorporation from operational permit. The provisions should be interchanged and the certificate of incorporation is issued first before issuing a permit	
Clause 31(5)	Confusion is created by the provisions of clause 31(5) where it provides that “upon registration, the board shall issue a permit ...” at this stage an organization is not yet incorporated since incorporation is provided for under clause 32.		Issuance of permits should only be for organizations that have been incorporated. Incorporation of an existing organization should be separated from fresh incorporation	Remove redundancy
Clause 31(6)	This clause is misplaced since it deals with incorporation under application for a permit. The clause should be shifted to somewhere under clause 32			
	Clause 31(10) should be an independent clause on offences, it mixes offences in all parts of the Bill			
	Clause 31(11) create dual liability which is against the spirit and form of proven legal principles of vicarious liability, double jeopardy and presumption of innocence.		Delete provisions that provide for dual liability	Unconstitutional as Article 28(9) of the constitution provides that

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	The principle of vicarious liability is to the effect that the employer should not be liable for the acts of his employee. In the circumstances provided for in the Bill, the employer should not be punished when the employee has been punished			a person shall not be tried twice for the same offence.
Clause 32	The headnote of clause 32 is confusing since the provisions of clause 32 are limited to incorporation and not registration.		Amend the headnote and remove the word “registration and ...”	To remove ambiguity
Clause 32(2)	Since applications for reservation of names should be placed under the Uganda Registration Service Bureau, an application under clause 32(2) should be accompanied by a letter of reservation of names from the URSB		Add a provision for a letter confirming the reservation of name from URSB	Avoid confusion
Clause 32(3)	The clause gives the minister powers to exempt individuals from the provisions of the Act, This means the minister can allow a non-cooperate entity without legal personality to operate in Uganda.		The clause should be moved to clause 31 on application for and issuance of permits. The minister should have powers to exempt an organization from the permit but not incorporation	To remove ambiguity of having unincorporated entities operating as NGOs on powers of the minister
Clause 32(4)	The clause should be deleted as consequential amendment of clause 32(3)		Delete clause 32(4)	Consequential amendment to clause 32(3)
Clause 32(5)	The clause provides for issuance of permit, the issuance of permit should be separated from issuance of incorporation certificate. This clause should be shifted to clause 31		Shift clause 32(5) to clause 31(4)	To ensure consistency in the provisions
Clause 33(1)(d)	The clause gives the board excessive discretionary powers which can be abused. It allows the board to revoke a permit of an NGO if in its opinion “public interest requires so”. Public interest is not defined and this could be abused		Delete the clause or provide for a definition of public interest and how this should be applied.	To avoid possible abuse of discretionary powers by the board.
Part IX	This part provides for “self-regulation administrative and reporting obligations” from the provisions of this part it is clear the law is not providing for self-regulation but co-regulation. In actual sense the Bill proposes “Co-regulation” of entities and it calls it “self-regulation”		It should be made clear in the Bill whether organizations should be “Co-regulated” or left to do “Self-Regulation” which requires the organizations to have their own mechanisms independent of government systems	To remove ambiguity
Clause 34(1)	The clause provides for formation of a “self-regulating” body. However it is not clear what will amount to “self-regulation” hence creating a confusion between “Self-regulation” and “Co-regulation”		An interpretation of self-regulation should be introduced in the interpretation clause of the Bill. There’s need to be clear about the meaning of self-regulation.	To remove the ambiguity
Clause 34(2)	No need to register a mechanism		The bill is clear that the registration is	Separate self-regulation

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
			limited to the provisions of this clause and is dependent on the clarity that is proposed in 34 (1)	from government regulation
Clause 34(3)	<p>Like the previous clauses, the clause gives directions on how “self-regulating” bodies should “regulate themselves”. For example it mandates organizations to have a resolution stating that they are willing to be part of the self-regulating body. This should have been left to the organizations to determine what kind of commitment they need for them to belong to this body</p> <p>The Bill requires the code of conduct for self-regulating bodies to be registered (clause 34(4)(b)) and gives the board powers to determine and require any information from the self-regulating bodies. This undermines the spirit of self-regulation. It is not clear how and where such resolutions will be registered.</p>		Delete	
Clause 34(4)	The clause provides for the form and nature in which self-regulating bodies should conduct their business by requiring them to have a special meetings and determining the quorum of the special meetings.		Delete clause 34(4)	The provision takes away the independence of self-regulation.
Clause 35	No problem with the provision		Clear	
Clause 36	The clause creates unnecessary reporting levels for the organizations. Organizations have to submit annual returns to the board which include: a) budget; b) work plan; and c) funds received and sources of funding			Promotes transparency
Clause 36	Clause 36 generally does not require NGOs to submit audited accounts! The interest seems to be on the budgets and work plans as opposed to audit reports. In simple there is no requirement for internal transparency for the organizations		Instead of the law requiring the submission of budgets, it should require NGOs to submit audited accounts approved by their policy making bodies	
Clause 36(b)	The clause does not define what form of local government NGOs will be required to submit the documents limited. This leaves room for all kinds of interpretation. Under the S. 3 of the Local Government Act, local governments. By December 2010, Uganda had 112 District Councils, 174 Town councils, 27 Municipal councils, and about 1026 Sub county councils, 1 city council, 4 City division councils making a total of about 1344 local councils. The regional tier law creates more local governments and more districts, town councils,etcwill be created in feature. Requiring an NGO to		Provide a clear definition of local governments that NGOs are required to submit plans to.	

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	submit reports to even 10% of these will be a difficult task.			
Clause 36(d)	There is a double requirement for submission of documents to the district. In clause 36(b) NGOs submit budgets, workplans and sources of income to the “Local Government” and in 36(d) NGOs are required to “furnish to the district technical planning committee and the DNMC ... estimates of its income and expenditure for information. The kind of information submitted to the board and to the DNMC and to District technical committee is the same and there is no need for several submissions of information		Delete clause 36(d)	NGOs should submit their income and expenditure to the Board annually. There is no justification in creating these unnecessary procedures.
Clause 36(e)	There is use of the word “public interest”.What will legally amount to public interest needs to be defined		Subject to interpretation of ‘public interest’ in the interpretation clause inline with the spirit of the Constitution.	To remove ambiguity
Clause 37(1)	The clause gives powers to an officer of the secretariat to inspect an NGO “at any reasonable time” and request for information that appears necessary for him .... What amounts to “reasonable time” is not defined in the Bill. This could be abused. Since NGOs do not carry out activities that are so much a danger to the public, it would be important that such inspection be done with a warrant issued by court  This clause has a potential to violate the right to privacy guaranteed under article 27 of the constitution of Uganda.  The clause gives excessive discretionary powers to the officer to take “any information that appears necessary to him or her” such information should be defined in a warrant or an order allowing the officer to inspect the premises		Delete the “at any reasonable time” and replace it with a provision which will ensure that inspections are done in accordance with the constitutional requirements of a warrant.	To avoid violating article 27 of the constitution.
Clause 37(2)	The clause creates an offence for obstructing an officer doing impromptu inspection. Whereas obstructing an officer should be punished, there is need for predictability and ability to identify the officer as well as what he/she is looking for to be able to accord him or her assistance. The officer needs to carry a search warrant or prior communication should be given to the organization to enable it grant the officer the necessary support		Delete provisions that provide for offences created by subclause 1. Provide for warrant or prior communication before inspection. The document should be able to identify the officer and the nature of information he/she is looking	Provision is unconstitutional as it makes reference to subclause (1) which contravenes the constitution.
Clause 37(3)	Giving the Board powers to prosecute is against the principles of natural justice since the board will be the one to complain, investigate and prosecute the person. The powers to prosecute should		Delete clause 37(3)	To remove the possible violation

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	be left to the DPP. The board can work with the police to investigate crimes as is done in all the other government agencies			
Clause 38	Arbitrary and will encourage irresponsible action		Delete	
Clause 39	No concern with the provisions			
Clause 40(a)	Provisions of this clause undermine the need for a certificate of incorporation under clause 32 and issuance of a permit under clause 31. The two documents will be rendered useless if the districts and the DNMC have the powers to choose who and when to work in a district.  The requirement to sign MOUs means districts cannot be held accountable by citizens who come together to form NGOs. The districts will abuse the system and refuse any form of critical organization or organizations that are demanding for accountability.		Since the board has powers to issue a permit on where an NGO should work and powers to withdraw the permit if the NGO does not meet it's the requirements of the Act, there is no need to have extra MOUs with districts.	To avoid violation of the constitution.
Clause 40(c)	The requirement for NGOs to cooperate with local councils undermines the freedom of NGOs as citizens to choose who to associate with and who not to. This is contrary to the constitution		Delete clause 40(c)	To avoid violation of the constitution
Clause 40(f)	Prohibition of NGOs from engaging into acts which are "prejudicial to Uganda and the dignity of its people" is ambiguous. It should follow the basic legal principles that if parliament did not find reason to make something illegal, then that thing should be legal.		Delete clause 40(f)	To avoid violation of the constitution
Clause 41(d)	The wage rates should be determined between the employer and employee for as long as the follow employment laws of the country		Delete sub clause.	Align with current practice.
Clause 42	No concerns with the provisions			
Clause 43	The requirement to an affiliate organization requires clarity. The form of registration is not clear in the Bill. The Bill should define what amounts to an "affiliated organization" since different relationship scenarios can amount to affiliation		Define what amounts to affiliation and provide for the nature and form of registration required	To remove ambiguity
44 (1) (b)	The Board doesn't have powers to dissolve an organisation but by Court Order		Delete this sub clause and replace it with a provision providing for the NGO Board filing an application in court for the involuntary dissolution of the organisation	
Clause 44(2)	Whereas voluntary dissolution of an organization is a normal practice, such dissolution needs to follow principles of law such as the "Corporate veil" and the desire to protect the public from exploitation by the organization or its promoters. For this reason the		A comprehensive dissolution process similar to that of companies should be included to protect the public, government and donors from NGOs	To protect the government and the general public

Clause	Issues with the Provision	Verdict	Proposed Review	Justification
	law requires that dissolution of artificial persons be done with an order of court. Like it is under company law, voluntary dissolution should be through members securing a court order to that effect.		that would wind up without meeting their liabilities	
Clause 44	The clause makes the board the complainant, prosecutor and judge in the case of dissolution of organizations and this is against the principles of natural justice.		Amend clause 44(1) (b) to provide for dissolution of organizations by court.	To protect the public and the government
Clause 44(3)(c)	The bill does not create a difference between clause 33 which provides for revocation of a permit. Specifically clause 33(b) which provides for suspension of the permit once the NGO does not follow the requirements set in the permit.		Delete clause 40(3)(c)	To remove ambiguity
Clause 44(d)	The clause gives powers to the board to close an organization “for any reason it deems fit in public interest. The provision is ambiguous and may be abused.		Delete clause 44(d)	It is vague and grants the Board sweeping powers.
Clause 45	The Bill should provide for judicial oversight		Amend the provision to specifically provide for an appeal to court within the 3 months period.	To avoid providing for judicial oversight is unconstitutional and denies aggrieved persons right to an impartial appeal.

**Note:**

**GREEN:**

Can pass

**ORANGE:**

With an amendment, it can pass

**RED:**

Must be rejected or completely overhauled