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DIGITAL RIGHTS AND INCLUSION IN AFRICA REPORT



TANZANIA

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Tanzania

EXECUTIVE SUMMARY

This report identifies the state of digital rights and inclusion in Tanzania. It notes that despite efforts made through legislation of important laws, there is still room for improvement. The government of Tanzania still needs to review laws and address critical issues, such as penalties associated with violating certain laws. It is important to note that most rights, though granted, are not exercised holistically; this is evident in rights such as access to information. It has been reported that some specific sites have been blocked and were only accessible via a virtual private network (VPN), making access to information difficult and content censored. On October 13, 2023, the Tanzania Communications Regulatory Authority (TCRA) banned VPN usage. With this new regulation, one requires a permit from TCRA to use a VPN. Failure to comply with this leads to 12 months of imprisonment. Society deemed this an infringement of their fundamental right to privacy. Many aspects of the personal data protection legislation in November 2022⁹¹³ are to be applauded. However, concerns have been raised about data governance in collecting biometric information in making national digital IDs (NIDA) and electronic passports. This report aims to shed light on what currently exists, identify the gaps, and make

recommendations to help Tanzania's digital space thrive. This report has gained insights from desktop research on existing laws, policies, policy briefs, news, other reports and commentaries from different stakeholders.

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Introduction

According to the national census conducted in 2022 by the Tanzania National Bureau of Statistics, the population of Tanzania is 61 million, with a majority of that population residing in rural areas.⁹¹⁴ Adaptation of technology has been growing over the years, with TCRA recording an increase of internet users to a total of 34 Million internet subscribers as of September 2023. This is a 3 million increase compared to the 31 Million of 2022.⁹¹⁵ Tanzania's private sector has also not been left behind in embracing digital transformation and businesses have invested heavily in new technologies to improve operations and hence, increase in profit. Nonetheless, the government has managed to reduce time wastage through digitisation. The government has given considerable support to digitalisation by developing initiatives like the national broadband and Tanzania e-government strategies. The private sector has not been left behind in ICT development. Vodacom Tanzania has successfully created digital initiatives like the Mpesa mobile money platform and invested heavily in cloud computing and big data to improve customer service and network ability.

NMB also launched the NMB Mobile Banking Application and invested heavily in AI to improve its fraud detection capabilities. In addition to efforts made by the private sector, the government has gained recognition and ranked first in East Africa, third in Africa and 23rd globally on the GovTech maturity index (GTMI) by the World Bank. All these achievements came about through the establishment of supportive policy and legal framework, including enactment of the Personal Data Protection Act of 2022. Currently, the Tanzania government is in the process of developing the National Enterprise Service Bus (NESB) as stated by the Minister of ICT so as to facilitate data sharing between public and private sectors.⁹¹⁶

However, the government of the United Republic of Tanzania has been facing challenges that hinder the growth of the sector, such as digital taxation, cybersecurity concerns and gaps in data governance despite the Personal Data Act being passed in November 2022. This Act sought to make a minimum requirement for the collection and processing of personal information to protect the right to privacy. The Act includes the registration of data collectors and processors, procedures for data subject to obtain rights in the collection and processing of personal data, procedure of exporting personal data, complaint handling regulations, investigation and dispute resolution and complaint hearing procedures.

914 National Sensus 2022. <https://sensa.nbs.go.tz/> (accessed on 14 December, 2023)

915 TCRA, Communications Statistics quarter ending 30th September, 2023. https://www.tcra.go.tz/uploads/text-editor/files/TCRA%20Communications%20Statistics%202023%20-2024-Q1_1698210303.pdf (accessed on 13 December, 2023)

916 Tanzania Digest 'Digitizing Tanzania: A leap for private sector progress and national prosperity' (2023) <https://www.digest.tz/a-leap-for-private-sector-progress-and-national-prosperity/> (accessed on 13th December, 2023)

▶ Country Analysis

Internet access and ICT development

While the government has made efforts to remove VAT from imported smartphones and removing the TCRA licence for selling mobile phones⁹¹⁷ the government has restricted access by restricting access to some websites (adult content and some applications), platforms that can be accessed only through the use of VPN. For example a gossip App by Activist Mange Kimambi has been banned in Tanzania, only accessible via VPN.⁹¹⁸The restricting of porn sites was publicly acknowledged by the Minister in early February 2023 during a parliamentary debate. The Minister of Finance, in the 2022- 2023 budget speech, announced a 2% tax on the revenue from non-resident digital platforms which was received with a lot of criticism both internally and by international partners. On the Research ICT Solutions (RISs) Next-Generation Internet Index, Tanzania is ranked last in East Africa and 31st in Africa, with an index stating that this is because the internet in Tanzania is slow, expensive and laggy instead of improving affordability and rolling out new digital infrastructure, especially fiber.⁹¹⁹ Announcing digital taxes affects the growth of startups in the country and widely marginalised groups such as women and youth who have sought jobs in digital marketing and selling products via social media. This tax is visible through the taxing of online ads such as Facebook ads for Tanzanians.

Digital Tanzania Programme

The Digital Tanzania Project (DTP) is a project being implemented by the Ministry of Information, Communication and Information Technology (MICIT) in collaboration with the President's Office, Public Service Management and Good Governance (PO-PSM). This program is funded by the World Bank and is set to be implemented in two phases with the first phase running from 2021 -2025 and the second from 2026-2030. Its aim is to increase access to affordable, high-quality internet services for government, businesses and citizens to improve the government's capacity to deliver digital public services. However, there are major concerns that the law won't match the practice due to acts that have preceded it such as the stifling of the private sector through introduction of taxes on digital marketing through digital platforms.

The gender digital divide is still a huge challenge for Tanzania Aat a Women in Technology conference held in March 2023 The Minister of ICT Hon. Nape Nuye stated that Tanzania was working to bridge the gender digital gap. He informed the public that Tanzania is in the final process of developing a nationwide digital economy strategy and he said this would encompass representation of women to ensure no one is indeed left behind.⁹²⁰ For a country whose female population comprises 51% of the entire population it is critical that gender gaps such as access to skills and technology are

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917 Vatupdate 'Tanzania to remove VAT on smartphones to boost access to internet', available at <https://www.vatupdate.com/2021/06/17/tanzania-to-remove-vat-on-smartphones-to-boost-access-to-internet/>, (accessed on December 14, 2023).

918 Instagram post by Mange Kimambi on instructions on using VPN to access her app https://www.instagram.com/mangekimambi_/p/CzOsUUELTrd/(accessed on 18 December,2023)

919 RIS Articles Digital services tax in Tanzania'(2022) https://researchictsolutions.com/home/dst_tanzania/ (accessed on 10 December 2023)

920 The Citizen 'Government comes up with plan to bridge digital gender divide'(2023)<https://www.thecitizen.co.tz/tanzania/news/national/government-comes-up-with-plan-to-bridge-digital-gender-divide-4152152>(accessed on 8 december,2023)

addressed. While access is a huge gap the challenges of policy still leave a lot of women vulnerable to technology with most of them withdrawing due to online gender based violence and a lack of specific instruments and laws that address gender concerns in technology.

Freedom of Expression

Any individual has a universal right to exercise freedom to express themselves online and to access information. The right to speak, to be heard and to participate in political, artistic and social life, which includes the right to know, their right to seek, receive and share information via media. The government has been using provisions of the Media Services Act ,2015⁹²¹ and the Electronic and Postal Communications Regulations, 2020 to suspend licences and punish numerous media organisations as well as arrest individuals such as opposition party members and activists. Tanzania’s freedom of expression has been clouded by the government controlling the internet through putting government surveillance on internet activities and making sure the content suits the government’s interest.

In September 2023, there were 34 million internet users in Tanzania. Tanzanians’ internet usage has been growing over the years however, there is still a huge rural vs urban digital divide. Moreover, there have been restrictions to access information under the Statistics Act of 2015,⁹²² mandatory registrations and accreditation of journalists as well as harsh penalties under the Media Services Act of 2015, which criminalises offences related to computer systems and ICT. The government of Tanzania in February 2023, through TCRA, restricted access to adult content that is considered immoral and against Tanzanian ideals.⁹²³ Many online magazines and applications were blocked and cannot be accessed in Tanzania except through the use of VPN, which was also banned as of October 2023.⁹²⁴

The Media Services Act, 2016 has hampered the constitutional right of journalists and media houses to execute their mandate, which has been a violation of the right to freedom of expression. The provisions that have been required for authorisation and registration of social media as a condition for operation need to be amended. The Act has brought about intimidation, harassment and attacks against media houses, journalists, human rights defenders and bloggers.⁹²⁵

The Electronic and Postal Communications (Online Content) Regulation, 2020 : The regulation also offers no protection to citizens Data.⁹²⁶ According to a report by Zaina Foundation the Online Content Act despite having been progressively amended to integrate more changes consecutively in 2018, 2020 and in 2021, there is still a wide room for it to be wrongly utilised. This includes the excess power granted to the licensing authorities without oversight. In regulation 8, TCRA is given the authority to suspend or revoke the licence without following legal procedures on the right to be heard, which fosters the violation of human rights. Furthermore, the provider is not allowed to seek

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921 The Media service act 2016, <https://www.parliament.go.tz/polis/uploads/bills/1474021216-A%20BILL%20-%20%20%20THE%20MEDIA%20SERVICES%20ACT,%202016.pdf>

922 The statistics Act 2015 <http://parliament.go.tz/polis/uploads/bills/acts/1452062087-ActNo-9-2015-Book-1-10.pdf>

923 The Citizen ‘Tanzania to tighten access to pornography’ (2023) <https://www.thecitizen.co.tz/tanzania/news/national/tanzania-to-tighten-access-to-pornography--4119142> (Accessed on 7 december, 2023)

924 Speaker ‘Tanzania Imposes ban on VPN usage’ (2023) [https://www.spreaker.com/episode/tanzania-imposes-ban-on-vpn-usage--57254634#:~:text=Residents%20and%20citizens%20must%20fill,implement%20regulations%20on%20VPN%20usage.\(accessed on 14 December, 2023\)](https://www.spreaker.com/episode/tanzania-imposes-ban-on-vpn-usage--57254634#:~:text=Residents%20and%20citizens%20must%20fill,implement%20regulations%20on%20VPN%20usage.(accessed%20on%2014%20December,2023))

925 Civicus ‘Amendments on the Media Services Act of 2016 of Tanzania’ (2022) <https://www.civicus.org/index.php/media-resources/news/5553-amendments-on-the-media-services-act-of-2016-of-tanzania/>

926 The Electronics and Postal Communications Act (EPOCA) 2020 <https://www.tcra.go.tz/uploads/documents/sw-1619088125-The%20Electronic%20and%20Postal%20Communications%20%28Online%20Content%29%20Regulations,%202020.pdf>

redress after suspension or revocation.⁹²⁷

Privacy And Surveillance

The Constitution of Tanzania under Article 16 guarantees the right to privacy. This is further reinforced by the Electronic and Postal Communications Act 2010 and the Data Protection Act 2022. However, several sections of the Act are used by the government to restrict the right to privacy. The laws provide information disclosure procedures which have no adequate safeguard against possible abuse by law enforcement agencies. For example the Cybercrime Act provides penal sanctions which violate privacy and data protection. The Act has persecuted online users perceived as critical of the President and other powerful individuals. It also empowers police officers to demand information from service providers without stating the procedure, interfering with privacy with no judicial oversight.⁹²⁸ The Personal Data Protection Act, 2022 allows personal data transfer to other authorities under certain conditions, requiring clarification regarding content when transferring data out of the country. When TCRA imposed a ban on VPN usage, it raised concerns. In contrast, the action was against universal human rights to seek, receive and impart information hence infringement of fundamental human rights to privacy.

The Personal Data Protection Act, 2022, in section 35, prohibits the processing of personal data for direct commercial advertising purposes. Despite the prohibition, it's still unclear whether the section data handlers can trade the personal data of their data subjects; also, procedures for handling data breaches should be outlined in the Act as these are unclear. The Act also grants consent to bodies that collect, process, store or use personal data outside Tanzania's borders. As data subjects have not been accorded the power of consent the data is prone to misuse. Part 6 of the Act, Section 34(4), gives full legal rights to an heir, meaning they could consent to process private information on behalf of another party.

After many years of the government of Tanzania being reluctant to enact data protection law, in November 2022, the Personal Data Protection Bill was passed by Parliament. Despite the act covering many necessary areas, there are some areas of concern: The Act does not have procedures for handling breaches that involve unauthorised access and loss of personal data. Also, the Act allows personal data transfers to other authorities under certain conditions therefore, clarification is needed regarding the consent. This act coupled with the Electronic and Postal Communication Regulations 2020, states that to register a SIM card, one needs to submit biometric information (sensitive data). The government allows sensitive personal data to be taken and shared without proper legal procedures to protect personal data. Digital IDs are governed by the Registration and Identification of Persons Act 1986. NIDA administers the Act. Through the Act, NIDA has the authority to collect biometric information from the citizens. The fingerprints are taken when processing both IDs and travel passports under the Passport and Travel Document Act, 2002l. The information collected by NIDA is also shared with other service providers e.g. financial institutions, telecommunication companies and the police force.

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927 Zaina Foundation 'Analysis of electronic and post(Online content) regulations 2022 <https://zainafoundationtz.org/analysis-of-electronic-and-post-online-contents-regulation-2022/#:~:text=Regardless%20of%20the%20progressive%20amendments,United%20Republic%20of%20Tanzania%20and>

928 The Cybercrimes Act (2015) <https://www.parliament.go.tz/polis/uploads/bills/acts/1452061463-ActNo-14-2015-Book-11-20.pdf>

Universal Communications Services Fund

The Universal Service Fund was established and is governed by the Universal Communications Services Access Fund Act, 2006. In Tanzania, it is known as UCSAF, which facilitates access to communication services. UCSAF does a lot of work in the construction of communication infrastructures and services.⁹²⁹ It is reported that 94% of Tanzanian citizens have been able to get communication services as of January 2023 and 66% of Tanzania have communication services available due to the work of UCSAF. The geographical coverage of 2G is 69%, 3G 55% and 4G 36%, and they are working on upgrading the 2G to 3G.⁹³⁰ The UCSAF donated 35 CCTV cameras to Muhimbili National Hospital in April 2023 to improve security for patients, their relatives, doctors and all hospital staff with the project estimated cost being 10 million Tanzanian Shillings (TZS).⁹³¹

On 13th May 2023, Tanzania's President Samia Suluhu Hassan oversaw the signing of agreements for rural telecommunication projects aimed at providing communication services to 8.5 million previously unconnected individuals by building 758 new communication towers worth TZS 275.55 billion.⁹³² In November 2023, an agreement was made between UCSAF and Tanzania telecom operators for the development of network infrastructure, whereas UCSAF will cover 40% of TZS 265.3 billion and network operators to cover 60% of 265.3 billion. UCSAF is working aggressively in partnership with the private sector and government to decentralise the Internet, which has had a significant impact in terms of widening access to the internet to communities in Tanzania. At the end of August 2023, about 42 towers were erected in Zanzibar, and, courtesy of UCSAF, they serviced 211,601 people. This project cost 6.9Billion TZS.⁹³³

Emerging Technologies

In 2023 major efforts were placed to digitise Tanzania's economy during the 7th annual ICT conference, which took place in October 2023, organised by the National ICT Commission (ICTC). It came to a close with reachable reflections on ICT changes during the year 2023 and government directives for the ICT sector.⁹³⁴ The Permanent Secretary of the Ministry of ICT stated government efforts to develop ICT, the enacted laws governing ICT, the establishment of authorities and information centres and investment in the education and training of ICT professionals. The establishment of Govnet, the government ICT network, the national ICT broadband backbone, and the national fiber optic infrastructure have led to an integrated government service delivery platform.

As stated by Nape Nnauye, Minister for ICT in Tanzania, during a brief discussion with Forbes Africa, "latest technology trends such as the National Digital Economy framework embrace key technologies of the fourth industrial revolution: cybersecurity, cloud computing, and AI. They have yielded significant benefits in healthcare, energy and education."⁹³⁵ The major focus is research and investment in emerging technologies like 3D printing, augmented reality, IoT, and blockchain. The

929 UCSAF (2023) <https://www.ucsaf.go.tz/>

930 Daily News 'TZ makes major strides in communication sector' (2023) <https://dailynews.co.tz/tz-makes-major-strides-in-communication-sector/> (accessed on 15 december, 2023)

931 Daily News 'UCSAF donates CCTV cameras to MNH' (2023) <https://dailynews.co.tz/ucsaf-donates-cctv-cameras-to-mnh/> (accessed on 15 december, 2023)

932 DigWatch 'Tanzania signs agreements to extend telecommunications services to millions in rural areas' (2023) <https://dig.watch/updates/tanzania-signs-agreements-to-extend-telecommunications-services-to-millions-in-rural-areas> (accessed on 15 december, 2023)

933 UCSAF 'UCSAF opens up Zanzibar through ICT' (2023) https://www.ucsaf.go.tz/uploads/press_releases/en1699273397-UCSAF%20Zanzibar.pdf

934 Daily News 'The 7th ICT Conference 2023: Major strides towards digital development in Tanzania' (2023) <https://dailynews.co.tz/the-7th-ict-conference-2023-major-strides-towards-digital-development-in-tanzania/> (accessed on 13 december, 2023)

935 Forbes 'Driving Tanzania's Digital Future' (2023) <https://www.forbesafrica.com/brand-voice/2023/08/14/driving-tanzania-digital-future/> (accessed on 15 december, 2023)

key policies implemented to promote the adoption and use of technologies include the National ICT Policy 2016,⁹³⁶ the National Broadband Strategy, the National Digital Economy Framework, the National Cybersecurity Strategy, the enactment of the Personal Data Protection Act of 2022, and the development of the national guidelines to regulatory sandbox framework.

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► Conclusion & Recommendations

Conclusion

The revised National ICT Policy 2023 aims at developing citizen-centric digital infrastructure that fosters seamless, affordable and accessible delivery systems throughout the country. The ICT policy for 2023 aims to create a robust policy environment and strengthen the research and innovation ecosystem, encouraging individuals and innovators to generate creative solutions for addressing cybersecurity and development of future-ready ICT human resources in the country.⁹³⁷ The government of Tanzania has made a progressive shift to advance digitalisation for sustainable development by enacting the data protection law in 2022. The implementation needs to promote privacy. Tanzania is rapidly increasing its digital presence through various projects. Various efforts have been made by the Universal Communications Services Access Fund (UCSAF) to bridge the digital divide between rural and urban populations. Despite all the efforts, there is no specific legislation on digital rights in Tanzania.

937 Daily News 'Digital Transformation:Tanzania On track'(2023) <https://dailynews.co.tz/digital-transformation-tanzania-on-track/>(accessed on 12 december,2023)

Recommendations

Government:

- » Should stop attacks on the media and unjustified withdrawal of media licences
- » Should strengthen internet infrastructure to enable the full realisation of digital rights
- » Should amend the Personal Data Protection Act, 2022, Media Services Act 2016, the Cybercrime Act, 2015, and the Postal communication (online content) regulations, 2020 to strengthen protection of the right to privacy and freedom of expression
- » Should comply with the existing human rights in the constitution hence translating into promotion of digital rights
- » T Should prevent unnecessary data collection and processing.

Private Sector:

- » Should work with the government to ensure internet access in rural areas
 - » Should come up with community projects to advance the digital economy and digital access
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Civil Society:

- » Should advocate for the amendment of laws on digital rights such as the data protection act to be more inclusive of privacy concerns as well as the Cybercrime act 2015.
 - » Should conduct awareness programs and training on digital rights
 - » Should conduct strategic litigation on cases of digital rights violations
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