

LONDA



2021



Tanzania Digital Rights and Inclusion Report

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TANZANIA DIGITAL RIGHTS AND INCLUSION 2021 REPORT

A PARADIGM INITIATIVE PUBLICATION

Published by Paradigm Initiative

374 Borno Way, Yaba, Lagos, Nigeria

Email: media@paradigmhq.org

www.paradigmhq.org

Published in May 2022

Report written by Zaina Foundation

Editorial Team: 'Gbenga Sesan, Kathleen Ndong'mo, Hlengiwe Dube, Margaret Nyambura

Ndung'u, Mawaki Chango, Nnenna Paul-Ugochukwu and Thobekile Matimbe.

Cover Page design by Kenneth Oyeniya

Design & Layout by Luce Concepts

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EXECUTIVE SUMMARY

The fuel for democracy is freedom of expression. This report examines internet rights in the United Republic of Tanzania 2021. The emphasis is on online freedom of expression, online freedom of association and assembly, online access to information, and the impact of COVID-19 on exercising these rights. Further, the report highlights the state of digital rights, the legal framework of digital rights at the international, regional, and national level, to which Tanzania is a signatory.

The thematic focus has covered impacts of COVID-19 regulations on digital rights and inclusion, freedom of expression online, freedom of online media, privacy, digital ID and surveillance, access to information online, hate speech, misinformation and criminal defamation, digital exclusion in Tanzania and its impact on human rights, digital infrastructure and prioritisation of ICT, Artificial intelligence and national strategy as well as gender and ICT. Key recommendations include advocating for the amendment of all repressive laws which adversely affect the enjoyment of digital rights in the United Republic of Tanzania.





INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN TANZANIA

Tanzania is a country in East Africa with a population of 57.6 million, this is according to the Tanzanian National Bureau of Statistics.¹ According to Trading Economics, the Gross Domestic Product (GDP) per capita in Tanzania was last recorded at 976.16 US dollars in 2020. The GDP per capita in Tanzania is equivalent to 8% of the world's average.² In 2003, Tanzania recognized the advancement of the ICT sector and the role it plays in the growth of the country's economy by formulating the National ICT Policy of 2003 with an overall mission, "To enhance nation-wide economic growth and social progress by encouraging beneficial ICT activities in all sectors through providing a conducive framework for investments in capacity building and in promoting multi-layered co-operation and knowledge sharing locally as well as globally." The country is making good progress in using ICT in its sectors. For instance, in December 2020 the government formed the Ministry of Information, Communication and Information Technology which is vested with the mandate of furthering Tanzania through the Fourth Industrial Revolution (4IR) commonly referred to as the digital economy.

Further, the government has created a system through which customers can pay for public services via cards, internet banking and mobile money transfer. The system is called the Government Electronic Payment Gateway (GePG).

THE GDP PER CAPITA IN
TANZANIA IS EQUIVALENT TO

8%

OF THE WORLD'S AVERAGE

1. 2021 (URT). 2020 Tanzania in Figures. National Bureau of Statistics. Ministry of Finance and Planning. https://www.nbs.go.tz/nbs/takwimu/references/2020_Tanzania_in_Figure_English.pdf
2. <https://tradingeconomics.com/tanzania/gdp-per-capita> (Accessed on 23/2/2022)



GOVERNMENT ELECTRONIC PAYMENT GATEWAY (GEPG).

Despite the ICT progress in the country, challenges were still witnessed in this sector. For the past five years, Tanzania had been under the regime of the Late President John Pombe Joseph Magufuli. During his term, many digital rights violations have been reported including shrinking of civic space, infringement of freedom of expression, suspension of online media, intimidation, threats and arrests of internet users, surveillance and data privacy, internet disruption, the proliferation of laws and regulations which infringe digital rights, etc. However, there is new hope for the new regime of President Samia Suluhu Hassan after it ordered the Minister for Information, Communication and Information Technology to reinstate the suspended online TV and newspapers with a condition to observe laws of the country.³

COMPLIANCE WITH REGIONAL AND INTERNATIONAL FRAMEWORKS

Tanzania is a signatory to various international and regional instruments of human rights. These include the Universal Declaration of Human Rights (UDHR) which provides under Article 19 that *“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”* and the International Convention on Civil and Political Rights (ICCPR). Article 19 of the ICCPR provides for freedom of expression.

At the regional level, Tanzania is a signatory to the African Charter on Human and Peoples' Rights (ACHPR).⁴ Article 9 of ACHPR provides for the rights of freedom of expression and access to information, stating *“every individual shall have the right to receive information”*, as well as *“the right to express and disseminate his [sic] opinions within the law.”*⁵ In 2016, the African Commission adopted a Resolution on the Right to Freedom of Information

and Expression on the Internet in which it recognized that privacy online is important for the realisation of the right to freedom of expression and to hold opinion without interference and the right to freedom of peaceful assembly and association.⁶

Tanzania has incorporated provisions relating to freedom of expression, privacy and personal security as well as freedom of association in its Constitution of 1977 under Articles 16, 18 and 20.



**Tanzania is a signatory to various
international and regional instruments
of human rights.**



3. <https://www.malunde.com/2021/04/Samia-Uhuru-Habari.html> (Accessed 11/3/2022)

4. <https://www.achpr.org/legalinstruments/detail?id=49>

5. <https://www.ohchr.org/en/issues/freedomofopinion/pages/standards.aspx> (Accessed 26/7/2021)

6. Centre for Human Rights MOOC (2021): The Right to Privacy in the Digital Age in Africa. Module 2; Overview of Legal Framework on Privacy



IMPACT OF COVID-19 REGULATIONS ON DIGITAL RIGHTS AND INCLUSION

As of January 19, 2022, Tanzania reported a total of 32,393 confirmed COVID-19 cases. The country only started releasing data on the disease in July 2021, after denying the spread of the pandemic in its territory for over a year.⁷ Online TV and other media houses which were previously suspended for publishing misleading content that contravened professional standards contrary to the Electronic and Postal Communications (Online Content Regulations of 2020) commonly referred as EPOCA Online Content Regulations were reinstated upon the declaration of the current president with a condition to follow the laws of the country.⁸ However, there is still a challenge since the same laws (EPOCA Online Content Regulations of 2020, Cybercrimes Act No 14 of 2015 and Media Service Act No. 12 of 2016) are still operating in the country without any amendments. The above-mentioned laws received some criticism that they contravene digital rights as well as the Constitution of Tanzania.

The Electronic and Postal Communications (Online Content Regulations of 2020) has introduced new legal requirements to bloggers, internet users and online media.

Some of these legal requirements threaten the rights to freedom of expression online, freedom of assembly and association online as well as right to privacy. For example, Regulation 4 which provides *“a person shall not provide online content services without obtaining a licence from the Authority”*. However, the process of obtaining these licences is a long process and it requires that person to pay some taxes to Tanzania Revenue Authority (TRA). Therefore, this regulation restricts freedom of expression in the country. The regulation also restricts simulcasting, where Regulation 10 provides that *“any mainstream content service provider with district or regional licence shall not simulcast content using online platform”*. Further, the Regulations impliedly restrict the use of VPN since Regulation 16 provides *“(1) A person shall not publish any prohibited content as set out in the Third Schedule. (2) A person shall not render, possess or distribute technology, program, application or any other related thing that allows or helps users to have access to prohibited content”*. Additionally, the Regulation also contravenes the right to privacy by obligating internet café providers to install surveillance cameras to record and archive activities inside the café.⁹

7. <https://www.statista.com/statistics/1258560/confirmed-covid-19-cases-in-tanzania/> (Accessed 23/2/2022)

8. <https://ipi.media/new-tanzania-president-to-lift-ban-on-media-organizations/> (Accessed 11/3/2022)

9. Regulation 13 (1) (d)

FREEDOM OF EXPRESSION ONLINE

According to section 16 of the Cyber Crimes Act, *“any person who publishes information or data presented in a picture, text, symbol or any other form in a computer system knowing that such information or data is false, deceptive, misleading or inaccurate, and with intent to defame, threaten, abuse, insult, or otherwise deceive or mislead the public or counselling commission of an offence, commits an offence, shall on conviction be liable to a fine of not less than five million shillings or to imprisonment for a term of not less than three years or to both.”*

Regulation 14 of the Content Online Regulation 2020 provides that *“every subscriber and user of online content shall be responsible and accountable for the information he posts in an online forum, social media, blog and any other related media”*

The above-cited provisions were being used by the Authority to arrest online users who breached them. For example, Tanzanians began to speculate about President John Magufuli's health and whereabouts in March 2021.¹⁰ Many Tanzanian citizens took to social media with their questions and concerns. In response, the government issued threats of mass arrests to anyone who used social media to share false information about the President. Tanzania's 2015 Cybercrimes Act and the 2020 Electronic and Postal Communications (Online Content) Regulations were quickly invoked by authorities to arrest and detain those who violated its rules.¹¹ In the same month Innocent Bashungwa, Tanzania's Minister of Information, Culture, Arts and Sports, issued a warning specifically to the media to desist from spreading *“rumours”* about Magufuli's whereabouts, who had not been seen in the public eye since February 27 2021.¹²

10. <https://www.nytimes.com/2021/03/11/world/africa/magufuli-tanzania-president-covid-19.html>

11. <https://www.bbc.com/news/world-africa-56405313>

12. <https://www.bloomberg.com/news/articles/2021-03-09/tanzanian-opposition-leader-questions-president-s-whereabouts>

13. https://www.voanews.com/a/africa_tanzania-suspends-second-newspaper-less-month/6219286.html (Accessed 23/2/2022)

14. <https://www.thecitizen.co.tz/tanzania/news/government-slaps-raia-mwema-with-a-30-day-ban-3538632>

15. <https://nairobineews.nation.africa/wasafi-tv-banned-in-tanzania-for-six-months-video/> (Accessed 11/3/2022)

FREEDOM OF ONLINE MEDIA

In 2021, two magazines and two media houses were suspended in Tanzania. Uhuru magazine owned by the CCM party was suspended for one month from 11 August 2021 for publishing what was called a false story stating President Samia Suluhu Hassan would not vie for presidential office in 2025. Uhuru was said to have breached professional standards and had violated sections of Tanzania's Media Services Act.¹³

On 6 September 2021 Raia Mwema magazine was suspended for 30 days and charged with false publication about the political situation in Tanzania.¹⁴ Wasafi Tv was suspended for six months from January to June 2021 due to broadcasting live content of naked artists. Also suspended was the Jahazi program of Clouds FM for 14 days due to broadcasting content using abusing language.¹⁵ All these incidents continue to restrict Tanzanians' enjoyment of freedom of expression, which is clearly in violation of international treaties to which Tanzania is a signatory.



Every subscriber and user of online content shall be responsible and accountable for the information he posts in an online forum, social media, blog and any other related media.



PRIVACY, DIGITAL IDS AND SURVEILLANCE

Concerns have been raised in Tanzania about the broad and excessive powers granted to state agencies (police) to search and seize computer disclosure of data without clear guidelines and proper safeguards. The interference with the oversight and accountability for communications interceptions, and provisions that allow for interception without a warrant are of concern.¹⁶ In Tanzania, for an interception to occur a warrant or order from a judicial officer is needed in order to conduct monitoring and interception of communications. However, this isn't the practice, even in circumstances where the law provides a limitation, wide and vague words are then used which are undefined or sometimes a warrant for interception can be made orally which provides grounds on which interception of communications can easily be conducted in Tanzania.

In breach of privacy, section 31 of the Tanzania Cybercrimes Act, 2015 gives powers to the police officer in charge of a station to search and seize or authorise the search and seizure of communication devices or data in conducting investigations without a warrant. On biometrics, it's not possible to register a SIM card unless the biometric information collected is verified against the National Identification Authority (NIDA) database, which was itself created under the Registration and Identification of Persons Act.

Additionally, the EPOCA Regulations are also criticised for breaching the right to privacy by requiring persons operating internet cafés to install surveillance cameras to record and archive activities inside the cafés.¹⁷ The same provision requires the registration of all customers of internet

cafes, who are required to produce a national ID card. Tanzania has no specific law in regards to data protection. However, recently the Minister of Information, Communication and Technology, Hon. Minister Nape Nauye (MP) stated, *"There is a process which is going on of enacting data protection law and certain matters will be addressed within the law."*

ACCESS TO INFORMATION

Tanzania continues to use autocratic legalism as an indirect way to prevent people from accessing and sharing content online, as a result of weak legislatures, and requiring long processes to be followed when accessing information for public use and hefty fines complimented with criminalisation of free speech.¹⁸ Despite the fact that Tanzania is a signatory and has ratified international and regional instruments as a commitment to adhere to the right to seek, receive and, or disseminate information,¹⁹ having laws that prohibit its people from enjoying that same right which is stipulated in the constitution is unconstitutional. For instance, the EPOCA Regulation 4 sets a mandatory requirement for everyone who wants to provide online content to secure a licence from TCRA failure of which would attract a fine upon conviction. This provision restricts people from receiving and disseminating information online, contrary to the Constitution. In 2020 and 2021 various online media/ channels and magazines were fined and others suspended for failure to comply with this provision. For instance, the banning of the Shule na Uongozi Youtube channel of Humphrey Polepole.²⁰ Similarly, the law punishes officials who improperly release information with prison terms, but there are no clear penalties for those who improperly withhold information. Therefore, the suspension of these media led to limited access to information.

16. <https://bti-project.org/en/reports/country-report/TZA>

17. Rule 13 (1) (d) of the Electronic and Postal Communications (Online Content) Regulations, 2020

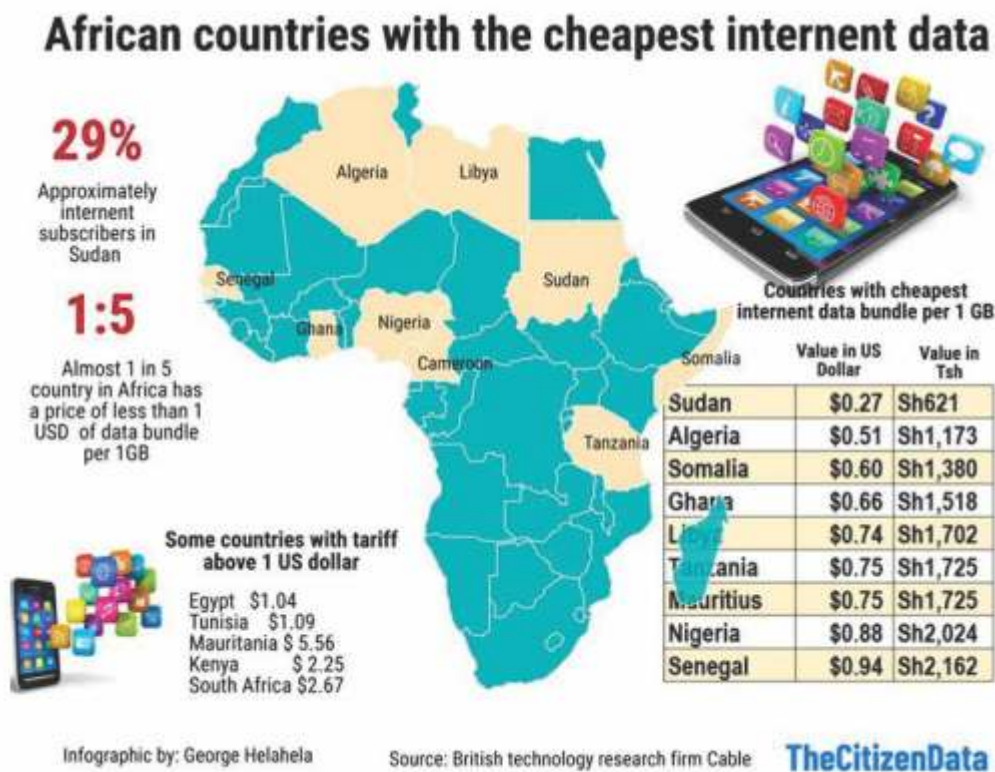
18. <https://www.article19.org/resources/tanzania-repeal-entire-online-regulations-2020/>

19. Article 18 (b) of the Constitution of United Republic of Tanzania

20. <https://www.thecitizen.co.tz/tanzania/news/tcra-suspends-shule-ya-uongozi-on-polepole-s-online-tv--3656362#:~:text=Dar%20es%20Salaam,.regulations%20in%20broadcasting%20online%20content.> (Accessed 17/3/22)

Further, the cost for internet bundles for the year of 2021 has substantially increased. This limits the enjoyment of the right to access to information. Although statistics still show that Tanzania has the cheapest data bundles amongst East African countries. Sudan - with a population of more than 45 million and at least 13 million internet subscribers - is at par with Italy (\$0.27), but trails

Israel (\$0.05), Kyrgyzstan (\$0.15) and Fiji (\$0.19) in the global rankings. African countries that charge mobile internet subscribers less than a dollar to browse the web and run mobile apps are Ghana (\$0.66), Libya (\$0.74), Tanzania (\$0.75), Mauritius (\$0.75), Nigeria (\$0.88), Cameroon (\$0.90) and Senegal (\$0.94).²¹



HATE SPEECH, MISINFORMATION AND CRIMINAL DEFAMATION

In 2021 in Tanzania, independent voices argued that the government frequently used fake news and hate speech as a pretence to prevent civil society organisations and opposition political actors from saying or accessing specific information²² in the lawsuit number 220/2018 where its judgement was offered on 28th October 2021.

Benard Membe sued Cyprian Musiba for allegedly accusing him, without proof, of sabotaging President Magufuli's efforts to bring about development for the people while claiming that one of the methods was in the carrying out of the run-up to the 2020 General Election in the early stages of approving the candidate for the position

21. <https://www.thecitizen.co.tz/tanzania/news/business/data-bundles-in-tanzania-cheapest-in-east-africa-3544188>

(Accessed 11/3/2022)

22. <https://www.tandfonline.com/doi/full/10.1080/1369118X.2021.1994623>

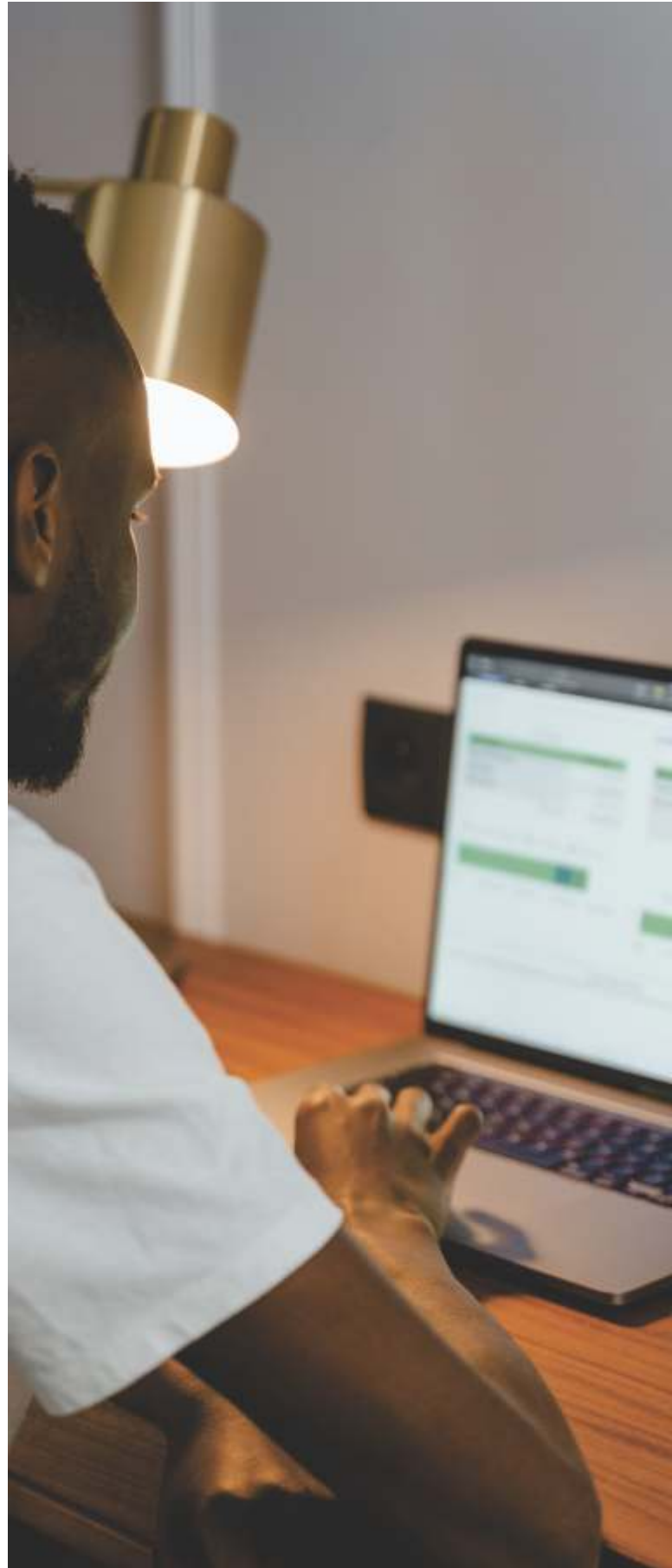
to represent the Chama Cha Mapinduzi CCM party. Msiba, who described himself as a *'free activist'* claiming to defend the former President Dr John Pombe Magufuli, was also using his media to explain what he claimed was done by the government in power. Members claimed to have been tainted through the media, which led to the former Editor and other executives of the media, the *'Tanzanite newspaper'* being included with Msiba in the case. Membe became Minister of Foreign Affairs in the five-term government under former President Jakaya Mrisho Kikwete, and became the Presidential Candidate of the United Republic of Tanzania in the 2020 General Election, on the ACT Wazalendo Party ticket. In the case, Benard Membe is demanding compensation of 10 billion shillings for his name being tarnished by what he claimed was a scandal against him.²³

DIGITAL EXCLUSION IN TANZANIA AND ITS IMPACT ON HUMAN RIGHTS

In Tanzania, the digital divide between urban and rural, low income and middle income is large. Currently the country is facing the following challenges which create digital exclusion in the country. These include challenges of internet disconnection, unstable connection, unavailability and unaffordability of hardware and software, unaffordability of internet bundles and digital literacy.

DIGITAL INFRASTRUCTURE AND PRIORITISATION OF ICT

Tanzania has seen considerable investment in fibre infrastructure in recent years. The government-backed National ICT Broadband Backbone (NICTBB) now extends over 7,500km in regions and districts across the country, and the Fibre Consortium (comprising Airtel, Tigo, Vodacom and Zantel) has constructed about 400 km of metro fibre in Dar es Salaam, Dodoma, Morogoro,



23. <https://watetezi.co.tz/hukumu-kesi-ya-membe-kuwadai-fidia-ya-bilioni-10-msiba-na-wenzake-yasogezwa-mbele/> (Accessed 11/3/2022)

Mwanza and Arusha, as well as over 1,500km of backbone fibre linking the major cities of Dar es Salaam, Dodoma, Arusha and Moshi. However, mobile technology has emerged as the key driver of digital transformation in the country. The technology enables last-mile connectivity for people without access to fixed network infrastructure, while the convenience and affordability of mobile devices, relative to other communications devices, enables personal connectivity to digital services. Mobile networks cover a wide area, making it a more cost-effective option relative to fixed-line technologies for connecting underserved areas, while rising smartphone adoption is allowing more people to use advanced, feature-rich digital services.²⁴

Despite the said efforts, the country is still experiencing some challenges with regards to digital infrastructure including unstable limited installation of cellular tower telecoms in remote/rural areas, unstable connection of communication and internet as well as limited power (electricity).

ARTIFICIAL INTELLIGENCE AND NATIONAL STRATEGY

Tanzania's technological push on Artificial Intelligence (AI) is gaining traction, and the country has now taken a step forward by investing in it, as evidenced by the recently opened laboratory in Dodoma. The Sh1.8-billion project multidisciplinary Artificial Intelligence for Development of Africa's Anglophone research lab at the University of Dodoma (Udom) in partnership with Nelson Mandela African Institution of Science and Technology (NM-AIST) is clear evidence.²⁵

The AI laboratory is to allow Tanzania to realise its goal of creating and benefiting from a vibrant digital economy while also transforming the nation's manufacturing sector. In echoing Vision 2025, the late President Dr. John Pombe Magufuli emphasised during the inauguration of the 12th Parliamentary Session on 13th November 2020 the need of expanding the Broadband coverage to 80% by the year 2025. The Ministry of Information, Communication and Information Technology stated that in the 60 years of independence the industry has been developing, and currently has 270 registered newspapers and publications, more than 200 Radio, 48 Television Stations, 122 Blogs, more than 20 online radio and more than 500 online televisions.²⁶

GENDER AND ICT

Tanzania is currently facing an undeniable challenge with few girls in the ICT field. This leads to a scarcity of women role models who have thrived in STEM (Science, Technology, Engineering and Mathematics) and ICT.²⁷ While the Cyber Crimes Act protects women and girls from cyber bullying, child pornography and other online attacks, the number of women using online platforms is still low compared to their male counterparts. Zaina Foundation recently noted during one of its forums that this problem has worsened so much that most women Parliamentarians are not using social media to avoid cyberbullying. Quoting the speech of Hon. Neema Lugangira (Member of Parliament), *"Currently we have about 143 – 145 women MP's in the current Parliament, but those who are active on social media are only 12 -15 women MP's."*²⁸

24. GSMA Association (2019): Digital transformation in Tanzania. The role of mobile technology and impacts on development goals.

25. <https://africa.ai4d.ai/blog/introducing-ai4d-africas-anglophone-multidisciplinary-research-lab/>

26. <https://habari.sokofind.com/2021/11/16/waziri-ashatu-aelezea-mafanikio-ya-wizara-ya-habarimawasiliano-na-teknolojia-ya-habari-tangu-uhuru/> (Accessed 11/3/2022)

27. <https://news.itu.int/bridging-the-stem-and-ict-gender-gap-in-tanzania/> (Accessed 23/2/2022)

28. This is a direct quote during her speech tendered during the US department on Democracy, Human Rights and Labour in short referred to as DRL Policy Shaping Workshop which was held in February 2022.



CONCLUSION

The right to freedom of expression in Tanzania was repeatedly violated in 2021. Online gender-based violence, suspension of the media, threats, intimidation and arrest of online users and government surveillance remain issues. A data protection law is yet to be enacted in Tanzania although the government through its Minister for Information, Communications and Information Technology has promised that the law formulation process is still ongoing. However, despite this situation, various state initiatives in promoting and protecting digital rights in the country are noteworthy such as the raising of citizens' awareness and the reinstatement of the suspended online media (Kwanza TV, Mwanahalisi).

In view of the issues raised in this report, there is a need for the following:

- There should be an establishment of a national coalition by civil society that will advocate for the review and amendment of the Electronic and Postal Communication (Online Content Regulations of 2020, Media Service Act No 12 of 2016 and the Cyber Crime Act No. 14 of 2015, etc. This coalition should necessitate the interest of citizens in terms of decision-making and accountability.
- Civil society organisations are urged to develop a strategic plan on how to advocate for digital rights and civic space in Tanzania.
- Digital rights organisations should create more platforms and forums which will offer more digital literacy and awareness to Tanzanians. They should focus mostly on raising awareness in rural areas and capacitating government officials (policy and lawmakers).
- The government through its responsible Ministries should work together with stakeholders in formulating a data privacy law.
- The government should ensure a safe and enabling environment that will enhance and motivate young girls and women to engage in ICT studies and the use of online platforms.
- The government should reconsider the licence fee for online users to be reasonable in order to allow low-income earners to enjoy their freedom and rights on online platforms.
- Telecommunications companies that provide internet services should reduce the cost of internet bundles to end-users.

Londa 2021 expands on last year's report with findings from 22 countries, examining themes of privacy, freedom of expression, access to information, segmentation and exclusion, digital transformation, affordability, gender and others within existing legislative frameworks, and against the backdrop of a widening digital divide. This edition captures the gaps and proffers recommendations to achieve a digitally inclusive and rights - respecting Africa.



Paradigm Initiative

374 Borno Way, Yaba, Lagos, Nigeria

Email: media@paradigmhq.org

www.paradigmhq.org

     @ParadigmHQ