

Introduction

1. In the second cycle of the UPR, Tanzania received 227 recommendations from 18 countries,¹ of which 12 were generally related to freedom of expression, opinion and freedom of the press. There were no specific recommendations related to online rights and freedoms.
2. As digitalisation in Tanzania grows, and government citizens alike become more reliant on the internet, particularly during the Covid-19 pandemic, there is need for the right to freedom of opinion and expression, access to information, equity and inclusion and the right to privacy to be protected online as well as offline, in line with Tanzania's obligations under Articles 17 and 19 of the International Covenant on Civil and Political Rights². These issues must be reflected in the recommendations made to Tanzania during the third cycle of the UPR in 2021.

Updates since the previous UPR Review

3. Since the second cycle, online connectivity in Tanzania has continued to grow. Internet penetration stands at 48% as at December 2020 - up from 34%.³ Teledensity was at 79% in March 2016⁴ and grew to 89% as at December 2020.⁵
4. The Access to information Act was passed in 2016⁶, a significant step towards promoting transparency and accountability, and encouraging public participation in decision making processes. However, under section 6, there are wide sweeping exemptions on access to information related to national security, due process of the law, information that facilitates commission of an offence, infringement of commercial interests, harming to government, safety and personal privacy and cabinet records or those of its committees.
5. The situation of freedom of expression online has declined since the previous review. Since the end of 2015, a number of laws and regulations with negative implications on freedom of expression on and offline have been passed. In July 2020, the government repealed the 2018 Tanzania's Electronic and Postal Communications (Online Content) Regulations and replaced them with the Tanzania Electronic and Postal Communications (Online Content Regulations

¹ Human Rights Council, "Report of the Human Rights Council on its 33rd session", https://www.upr-info.org/sites/default/files/document/session_25_-_may_2016/a_hrc_33_2.pdf

² OHCHR, "International Covenant on Civil and Political Rights", available at: <https://www.ohchr.org/documents/professionalinterest/ccpr.pdf>

³ Quarterly Communications Statistics, October - December 2020, <https://www.tcra.go.tz/statistic/2020%20Quarterly%20Statistics%20Reports/december>

⁴ Quarterly Communications Statistics Report, January- March 2016 Quarter, <https://www.tcra.go.tz/statistic/2016%20Quarterly%20Statistics%20Reports/march>

⁵ Quarterly Communications Statistics, October - December 2020, <https://www.tcra.go.tz/statistic/2020%20Quarterly%20Statistics%20Reports/december>

⁶ Access to Information Act, 2016, Section 5(1) See; <http://www.freedominfo.org/wp-content/uploads/Tanzania-Access-to-Information-Act-2016.pdf>

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2020.⁷ The 2020 Regulations aggravate the crackdown on freedom of expression as they require the registration of bloggers, online discussion forums, radio and television webcasters.

6. On a positive note, in March 2019, the East African Court of Justice ruled that provisions on sedition, criminal defamation and false news publications under the Media Services Act, 2016, were restrictive to press freedom and freedom of expression and in violation of the Treaty establishing the East African Community.
7. Earlier in June 2018, the East African Court of Justice ruled that a three year ministerial ban on a newspaper was unreasonable, unlawful, disproportionate, and based on opinion. The Minister was ordered to annul the order and allow the newspaper resume publication.
8. Another progressive development was the June 2019 amendment of the Statistics Act, 2018, decriminalising the publication of independent statistics.
9. Since the first case of the Coronavirus disease (Covid-19) was announced in Tanzania on March 16, 2020, the government has been in the spotlight for its handling of the pandemic.⁸ It has denied the severity of the pandemic, suspended media houses, and criminalised Covid-19-related speech. In June 2020, now deceased President John Pombe Magufuli declared the country Covid-19 free, stating that: *“Our enemies will speak a lot, but the reality remains that Tanzania is safe and that is why none of us here is putting on a mask. Does it mean we are not afraid of dying? No, it is because coronavirus has been eliminated.”*⁹
10. In August 2020, the Content Committee under the Tanzania Communications Regulatory Authority amended its Electronic and Postal Communications (Radio and Television Content) Regulations, 2020 to compel under Section 37, licensed local broadcasters to seek the regulator’s permission before airing either national or international content, which they generate in collaboration with another online content provider.¹⁰ Through this amendment, the government banned foreign media and all local media from broadcasting content from foreign media without official permission.¹¹

Freedom of the Press or Freedom of Expression and Opinion

11. Article 18 of the Constitution of the Republic of Tanzania provides that “every person has freedom of opinion and expression of his ideas; has the right to seek, receive and, or disseminate information regardless of national boundaries.”¹²
12. Tanzania is also party to various international and regional instruments providing for the right to

⁷ The Electronic and Postal Communications (Online Content) Regulations, 2020, available at: <https://bit.ly/39aGmf6>

⁸ Charles Kombe, VOA News, “Tanzania Confirms First Case of Coronavirus”, 16/03/2020, available at: <https://www.voanews.com/science-health/coronavirus-outbreak/tanzania-confirms-first-case-coronavirus>

⁹ Daily Monitor, 21/07/2020, “Magufuli declares Tanzania free from Covid-19”, available at: <https://bit.ly/3d4codP>

¹⁰ Electronic and Postal Communications (Radio and Television Broadcasting Content) 2020, available at: <https://bit.ly/3lO6bGQ>

¹¹ Kai Dambach, *Deutsche Welle*, 11/08/2020, “Tanzania announces new, tough rules for foreign media”, available at: <https://www.dw.com/en/tanzania-announces-new-tough-rules-for-foreign-media/a-54528870>

¹² Constitution of Tanzania, Article 18, available at: <https://bit.ly/3vSIxxL>

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freedom of expression and of access to information including the International Covenant on Civil and Political Rights,¹³ and the African Charter on Human and Peoples' Rights¹⁴ which guarantees the right to expression and information under Article 9.

13. Despite the Constitutional and regional guarantees on the enjoyment of freedom of expression and the media, repressive laws and restrictive actions by authorities continue to limit the enjoyment of these rights.
14. The Media Services Act was enacted in November 2016, aimed at providing a regulatory framework for the media industry. The Act, under section 7 empowers the state to direct private media to broadcast and publish information on unspecified matters of national importance, negating the principle of editorial independence. The Act also provides for mandatory accreditation and registration of journalists under section 19, and lays out media offences and penalties of fines and imprisonment, including for publication of false news, sedition, criminal defamation, operating unlicensed media outlets, and practicing journalism without accreditation.¹⁵
15. In March 2019, the East African Court of Justice ruled in the case of *Media Council of Tanzania & 2 Others vs AG* that provisions on registration of journalists, criminal defamation, sedition and publication of false news violate freedom of expression and press freedom, and offend the East Africa Community Treaty principles on good governance, democracy and human rights. The Court directed Tanzania to take all necessary measures to bring the Media Services Act into compliance with the Treaty for the Establishment of the East African Community.¹⁶ No action has been taken to date to comply with the ruling.
16. The government in June 2019 amended the Statistics Act of 2018, which before the amendment made use of independent statistics illegal unless approved, or making mistakes in figures criminal. The amendment revoked the criminalisation of publishing independent statistics, but maintained the National Bureau of Statistics authority to approve use of any statistics.¹⁷
17. Another law used to suppress expression is the Cybercrimes Act, 2015¹⁸, which criminalises offences related to computer systems and information communication technologies (ICT); the investigation, collection and use of electronic evidence and related matters. The enforcement of this law has raised concerns particularly on infringement of online freedom of expression, especially criminalizing publication of false news and rumors. Section 16 criminalises intentional publication of information or data that is false, deceptive, misleading or inaccurate with intent to defame, threaten, abuse, insult or otherwise deceive or mislead the public. Many critical voices have been charged and prosecuted under the ambiguous provisions of the law, especially section 16.
18. Since the regime change in October 2015, there have been increased threats and crackdowns against critical voices including arrest and intimidation of journalists and human rights defenders,

¹³ See Ratification Status, <https://indicators.ohchr.org/>

¹⁴ African Commission on Human and Peoples' Rights, Ratification Table: <https://bit.ly/31g3CUP>

¹⁵ Media Services Act, 2016, available at: <https://bit.ly/3tZxbGx>

¹⁶ *Idib*

¹⁷ The Statistics Act, 2019, available at: <https://bit.ly/3vWJoxp>

¹⁸ Cyber Crimes Act, 2015, available at: <https://bit.ly/3fecOAY>

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as well as banning of media houses.¹⁹ In March 2017, during the swearing in of the new Information Minister, having fired the previous one for ordering a probe into an alleged raid on a private television station by a senior government official, the former President, Magufuli warned journalists, to be careful and watch the extent of their media freedom.²⁰

19. In June 2017, *Mawio*, a weekly newspaper was banned from publishing online and offline for two years following its publication of an article implicating previous Presidents, Benjamin Mkapa and Jakaya Kikwete in dubious mineral deals.²¹
20. Three months later in September 2017, another Newspaper, *MwanaHalisi*, was banned by the government for two years for purported repeated unethical reporting, publishing fabricated and inciting articles and endangering national security²², and refusing to apologise.²³ Later in 2017, another Newspaper, *Raia Mwema* was also banned for 90 days.²⁴
21. On February 27, 2019 the Information Services Department, which oversees newspaper licenses, temporarily suspended the publication license of *The Citizen* on accusations that it published reports that were false, misleading, and seditious. The order extended to the newspaper's online publications. The suspension order related to a February 23 article that reported the Tanzanian shilling had depreciated against the United States Dollar (USD) - currency information that only the Bank of Tanzania was mandated to publish.²⁵ In May 2020, two journalists, Haidary Hakam and Alona Tarimo working with Mwananchi newspaper were arrested for allegedly sharing misleading information via WhatsApp, claiming that two people had died from Covid-19 in Dar es Salaam.²⁶ In the same month, two Kenyan journalists, Clinton Isimbu and Kaleria Shadrack from Elimu TV were also arrested for interviewing Tanzanian residents about the coronavirus.²⁷
22. An August 2016 ban against the Mseto Newspaper by the Minister of Information, Youth, Culture and Sports and directive by the office of the Registrar of Newspapers prohibiting Mseto from publishing or disseminating information by any means, including on the internet was challenged before the East African Court of Justice. On June 21 2018, in the case of *Mseto vs AG*,²⁸ the

¹⁹ Human Rights Watch, World Report 2018, “Events of 2017”, available at:

<https://www.hrw.org/world-report/2018/country-chapters/tanzania-and-zanzibar>

²⁰ Reuters, “Tanzania's president warns journalists that press freedom has limits”, 24/03/2017, available at:

<https://reut.rs/2PnuOOC>

²¹ The East African, “Tanzania slaps 2-year ban on newspaper for linking Kikwete, Mkapa to mining row”

16/06/2017, available at: <https://bit.ly/3fd5fdT>

²² Insider, 20/10/2017, “Magafuli bans newspaper over inciting violence allegations”, available at:

<https://bit.ly/3iO73LC>

²³ Reuters, 21/09/2017, “Tanzania slaps two-year ban on critical weekly tabloid”, <https://bit.ly/2NXfhEY>

²⁴ The East African, “Tanzania bans weekly Raia Mwema tabloid for 90 days”, 17/09/2017, available at:

<https://bit.ly/2P8OZ35>

²⁵ CPJ, “Tanzania imposes 7-day publication ban on The Citizen”, 01/03/2019, available at:

<https://cpj.org/2019/03/tanzania-citizen-7-day-publication-ban/>

²⁶ CIPESA, 19/10/2020, “Tanzania Tramples Digital Rights in Fight Against Covid-19”, available at:

<https://cipesa.org/2020/10/tanzania-tramples-digital-rights-in-fight-against-covid-19-as-elections-loom/>

²⁷ Robert Masai, *Citizen Digital*, 17/05/2020, “

Two Kenyan journalists arrested in Tanzania while interviewing residents on coronavirus”, available at:

<https://citizentv.co.ke/news/two-kenyan-journalists-arrested-in-tanzania-while-interviewing-residents-on-coronavirus-332889/>

²⁸ EACJ, Reference No.7.2016, available at: <https://bit.ly/3rlSSyG>

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regional court ruled in favour of Mseto, stating that a three year ministerial ban on the newspaper was unreasonable, unlawful, disproportionate, and based on opinion. The Minister was ordered to annul the order and allow the newspaper resume publication. The State appealed the decision, which the Court dismissed on June 2 2020 for being lodged out of time.²⁹ Despite the Court's decision, Mseto still remains banned.

23. On March 23, 2020, police barred five journalists including Godfrey Thomas (Millard Ayo TV), Lucas Myovela (Muungwana Blog), Grace Macha (Tanzania Daima) and Abadi Mohammed (Clouds TV) from accessing Court to cover a murder case in total disregard of the principles of open justice.³⁰
24. Allegations of economic crimes have also been weaponised against journalists and human rights defenders. In May 2020, Angellah Kiwia, a Jamhuri newspaper reporter, was arrested and charged in a Dar es Salaam court with four counts of money laundering.³¹ In 2019, a prominent investigative journalist, Erick Kabendera was also arrested, and detained for seven months on charges of money laundering, tax evasion and leading organised crime. He entered a plea-bargain, for his release and agreed to pay fines amounting to over 100,000 US dollars.³²
25. On April 25, 2019, Dr. Wairagala Wakabi, the Executive Director of the Uganda-based Collaboration on International ICT Policy for East and Southern Africa (CIPESA), was detained, upon arrival at Dar es Salaam Julius Nyerere International Airport.³³ After hours of interrogation, Dr. Wakabi was deported to Uganda as a “prohibited immigrant.” Lawyers reported that the authorities denied him entry into Tanzania on vague grounds of “national interest.” CIPESA works in Tanzania and across Africa, advocating for digital rights.
26. In December 2016, Maxence Melo was charged with three offences: two counts of not complying with a disclosure order under Section 22(2) of the Cyber Crimes Act (2015) and one count of managing a domain that is not registered in Tanzania under Section 79(c) of the Electronic and Postal Communications Act (2010).³⁴ The charges stemmed from Jamii Forum's (which Melo founded) refusal to comply with police disclosure notices to reveal the Internet Protocol (IP) addresses, email and phone numbers of users, whose identities authorities sought after whistleblowing corruption scandals in the oil and banking sectors. In June 2018, Melo was acquitted of one of the three charges.³⁵ In April 2020, Melo was convicted of the other charges and sentenced to one year in prison or a fine of three million

²⁹ EACJ, Applications Nos. 3 And 4 Of 2019, available at: <https://bit.ly/3tT7t6h>

³⁰ Media Council of Tanzania, Press Freedom Violations Report, 2020, pg. 20, available at: <https://mct.or.tz/wp-content/uploads/2021/02/PFVR-2020.pdf>

³¹ Supra note 25, page 10

³² BBC News, “BBC Tanzania journalist, Erick Kabendera, freed after seven months”, 24/04/2020, available at: <https://www.bbc.com/news/world-africa-51619618>

³³ CIPESA, “CIPESA Executive Director Detained At Tanzania Airport – UPDATE”, 25/04/2019, available at: <https://cipesa.org/2019/04/cipesa-executive-director-detained-at-tanzania-airport/>

³⁴ CIPESA, “UPDATE: Maxence Melo Charged with Obstruction of Investigations and Operating a Domain Not Registered in Tanzania”, 16/12/2016, available at: <https://bit.ly/3rs88KA>

³⁵ CIPESA, “Tanzanian Court Acquits Jamii Forums Founders on One of Three Charges”, 07/06/2018, available at: <https://cipesa.org/2018/06/tanzanian-court-acquits-jamii-forums-founders-on-one-of-three-charges/>

Tanzanian shillings (USD 1,400)³⁶

Freedom of Information and Censorship of Content

27. Article 18 (d) of the Constitution provides that everyone has a right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society. The Access to Information Act was passed in 2016³⁷, a significant step towards promoting transparency and accountability, and encouraging more and better public participation in decision making processes. However, under section 6, there are wide sweeping exemptions on access to information related to national security, due process of the law, information that facilitates commission of an offence, infringement of commercial interests, harming to government, safety and personal privacy and cabinet records or those of its committees. Furthermore, the Act grants only Tanzanian citizens the right of access to information, which affects foreign journalists, researchers and other individuals from accessing information in the possession of the state.
28. A 2019 study, assessed the responsiveness of local government authorities (LGAs) and some central government offices to citizens' information requests and found widespread laxity amongst officials in the handling and processing of information requests, lack of knowledge of the law and reluctance of government officials to share public information.³⁸
29. In 2017, the Government ended a twenty-year tradition of live broadcasts of Parliamentary sessions on the pretext that the State broadcaster, the Tanzania Broadcasting Corporation (TBC), could no longer afford to meet the costs. Government later extended this ban to private radio and television stations even though they had no funding constraints.³⁹
30. As the government continued to deny the existence of Covid-19, authorities also invoked laws predating the pandemic to intimidate, arrest, and detain persons, including whistleblowers and critics, in order to censor what alleged Covid-19 misinformation. In May 2020, the Tanzania Communications Regulatory Authority banned the *Mwananchi* newspaper for six months and fined it five million Tanzania shillings (USD 2,175) for publishing false and misleading information on Covid-19. The ban was effected under the Online Content Regulations of 2018.⁴⁰ In July 2020, *Kwanza Online TV* was also suspended for 11 months, for "generating and disseminating biased, misleading and disruptive content" after it published a United States

³⁶ CPJ, "Jamii Forums founder Maxence Melo convicted on obstruction charge, released in Tanzania", 19/11/2020, available at:

<https://cpj.org/2020/11/jamii-forums-founder-maxence-melo-convicted-on-obstruction-charge-released-in-tanzania/>; and FIDH, "Tanzania: Conviction of Mr. Maxence Melo from JamiiForums", 14/04/2020, available at:

<https://www.fidh.org/en/issues/human-rights-defenders/tanzania-conviction-of-mr-maxence-melo-from-jamiiforums>

³⁷ Access to Information Act, 2016, Section 5(1), available at:

<http://www.freedominfo.org/wp-content/uploads/Tanzania-Access-to-Information-Act-2016.pdf>

³⁸ CIPESA, "Study Reveals that a Culture of Secrecy Among Public Officials Hinders Media Work in Tanzania", 31/10/2017, available at: <https://bit.ly/3d4FzNX>

³⁹ ICNL, (2019), "Tanzania's Media Laws, a Handbook for Practitioners", p. 7, available at:

<https://www.icnl.org/wp-content/uploads/Tanzania-practical-manual-final-with-FHI360-covers.pdf>

⁴⁰ CPJ, "Tanzanian newspaper banned from publishing online for 6 months over COVID-19 report", 11/05/2020, available at: <https://cpj.org/2020/05/tanzanian-newspaper-banned-from-publishing-online/>

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embassy report criticising Tanzania's Covid-19 response on its Instagram page.⁴¹

31. Individuals who took to online platforms to share information on the pandemic also fell victim to the criminalisation of Covid-19 news.⁴² Among them: Awadhi Lugoya,⁴³ Mariamu Jumanne Sanane,⁴⁴ Afrikana Mlay,⁴⁵ and Albert Msando, a prominent lawyer in the Arusha region.⁴⁶
32. In semi-autonomous Zanzibar, the Registration of News, Agents, Newspapers & Books Act, 1988 grants unchecked discretion to the Director of Information to deregister any newspaper without providing reasons for such a decision. In April 2020, Talib Ussi Hamad, a journalist with the Tanzania Daima newspaper in Zanzibar was suspended from practising journalism for six months⁴⁷ on grounds that he breached Section 41 and 42(a) and (b) of the 1998 Act by publishing information related to Coronavirus infections, contrary to government guidelines. Talib filed a case in the Zanzibar High Court in July challenging the decision. The Zanzibar government lifted the suspension in August 2020.⁴⁸
33. On July 1, 2020, the Tanzania Communications Regulatory Authority (TCRA) Content Committee imposed a total of 30 Million Tanzanian Shillings in fines (XXX US Dollars) against six media entities for violating broadcasting rules and regulations as stipulated in the Electronic and Postal Communications (Radio and Television) Regulations, 2018. These include; Cloud Entertainment FM Radio, Duma TV, East Africa Radio, Global TV, SibukaTv and Star TV.⁴⁹
34. In July 2020, ahead of the October presidential and general elections, the government enacted a more limiting Electronic and Postal Communications (Online Content) Regulations, criminalising the online publication of “content against the State and public order,” calling of demonstrations, or publishing content that “promotes or favors what would raise sedition, hatred or racism.”⁵⁰ The Regulations also introduced exorbitant license fees for online content service providers and internet service providers, with penalties of up to 2,150 US Dollars fine and 12 months imprisonment for operating without a license. The Tanzania Communications Regulatory

⁴¹ IFEX, “Kwanza Online TV suspended for criticising government’s COVID-19 response”, 17/07/2020, available at: <https://ifex.org/kwanza-online-tv-suspended-for-criticising-governments-covid-19-response/>

⁴² CIPESA, “Tanzania Tramples Digital Rights in Fight Against Covid-19”, 19/10/2020, available at: <https://cipesa.org/2020/10/tanzania-tramples-digital-rights-in-fight-against-covid-19-as-elections-loom/>

⁴³ PesaCheck, “TRUE: A Tanzanian man has been arrested on charges of opening a Facebook account to spread COVID-19 misinformation”, 07/04/2020, available at: <https://bit.ly/3IONXoG>

⁴⁴ China.org.cn, “Tanzanian university student arrested over spreading COVID-19 rumor”, 11/04/2020, available at: http://www.china.org.cn/world/Off_the_Wire/2020-04/11/content_75920828.htm

⁴⁵ Xinhuanet, “Tanzanian man held for allegedly spreading false information on COVID-19”, 06/04/2020, available at: http://www.xinhuanet.com/english/2020-04/06/c_138951913.htm

⁴⁶ The Citizen, “Arusha advocate Albert Msando arrested over Covid-19 remarks”, 29/04/2020, available at: <https://bit.ly/399XotV>

⁴⁷ RSF, “Tanzanian reporter banned for six months for coronavirus coverage”, 25/04/2020, available at: <https://rsf.org/en/news/tanzanian-reporter-banned-six-months-coronavirus-coverage>

⁴⁸ Media Council of Tanzania, “Z’bar Govt Lifts Suspension Order Against Journalist”, available at: <https://mct.or.tz/suspension/>

⁴⁹ Christina Mseja, *Tanzania Daily News*, “TCRA Imposes 30m/- Fine to Six Defiant Radio, TV Stations”, 01/07/2020, available at: <https://allafrica.com/stories/202007020471.html>

⁵⁰ The Electronic and Postal Communications (Online Content) Regulations, 2020, available at: <https://bit.ly/39aGmf6>

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Authority (TCRA) has the power to cancel or revoke a license at its discretion.⁵¹

35. Several journalists have been arrested for operating online platforms without licenses. On February 29, 2020, three journalists, Prosper Daud Mfugale, of Njombe TV, Ibrahim Godfrey Mlele, the proprietor of Mlele Online TV, and Dickson Kanyika of Habari Digital were arrested and later charged on March 4, 2020 for breaching sections 103 (1) of the Electronic and Postal Communications Act, 2017 and Regulations 14(1) and 18 of the Electronic and Postal Communications (Online Content) Regulations of 2018, by illegally operating online TV platforms.⁵² On April 6, 2020, two journalists - Tumsifu Harry Kombe of NEWS 8 Online TV) and Jabir Johnson Mking'imle of JAIZMELALEO Blog, along with the YouTube channel Phijema TV owner - Julius Yesaya were arrested and detained at Moshi Central Police Station in Kilimanjaro region. The trio were interrogated in absence of their advocate for operating blogs and YouTube accounts without a license. They are currently out on bail.⁵³
36. On September 18, 2020 Dominic Frank Mgaya and Issaya Massawe were arrested and arraigned before the Kisutu resident magistrate court on allegations of publishing online content without a TCRA license.. They are both linked to the opposition party media, CHADEMA Media Online TV.⁵⁴
37. On October 21, 2020, the Executive Secretary of the Zanzibar Broadcasting Commission suspended the license of RVS Online TV for two months citing the broadcaster's unbalanced coverage of political parties, contrary to the Broadcasting Guidelines during the Election of 2020. The suspension letter did not substantiate the allegations.⁵⁵
38. On January 28, 2021, TCRA announced the suspension of issuance of licenses to online content providers such as Blogs and Online Television with immediate effect, for five months until June 30, 2021. According to TCRA, the suspension was in the wake of rampant violations of the license conditions by existing licensees. However, on March 18, 2021, the ICT Minister instructed the Regulator to resume registration in April 2021, stating that the suspension had had an adverse effect on youth unemployment and "June is very far".⁵⁶ During the suspension period, TCRA was expected to evaluate the challenges related to compliance with licensing conditions and how to overcome them.⁵⁷

Right to Equal Access and Opportunity

39. According to the Global Connectivity Index of 2020, Tanzania is ranked 78 out of 79 countries in

⁵¹ *Idib*

⁵² Media Council of Tanzania, (2020), "Press Freedom Violations Report 2020", p. 6, available at: <https://mct.or.tz/wp-content/uploads/2021/02/PFVR-2020.pdf>

⁵³ *Ibid*, p. 12

⁵⁴ Faustine Kapema, *Daily News*, "Chadema Officer, Student in Trouble Over Online TV Content", 20/09/2020, available at: <https://www.dailynews.co.tz/news/2020-09-195f6631aba2bee.aspx>

⁵⁵ User "Analogia Malenga", Jamii Forums, Post, "Zanzibar: RVS online TV yafungiwa kwa miezi miwili kwa kutotoa uwiano sawa kwa vyama vya siasa", available at: <https://bit.ly/2OYfJmZ>

⁵⁶ Edward Qorro, *Daily News*, "Online Content Provider Registration Starts Next Month", 18/03/2021, available at: <https://www.dailynews.co.tz/news/2021-03-17605233cb961f4.aspx>

⁵⁷ *Idib*

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internet affordability.⁵⁸ Fixed and mobile broadband internet remains largely out of reach for many due to limited telecommunications infrastructure deployment, especially in rural areas. Several other obstacles hindering internet access include the high cost of access, with 1GB of data costing an average of Tanzanian shillings 2,500 (USD 1.80).

40. Accessibility of telecommunications and online platforms for persons with disability is among the the pillars of the 2030 Agenda⁵⁹ for Sustainable Development and the Sustainable Development Goals (SDGs).⁶⁰ Tanzania’s National ICT Policy 2003 calls for provision of special attention to providing new learning and ICT access opportunities for disadvantaged groups, including persons with disabilities, in order to address social inequities.⁶¹ However, while the policy and other national laws advance the rights of persons with disabilities, including those on access to and use of ICT, these have largely remained on paper with key provisions not being implemented. As a result, a large section of persons with disabilities continue to face digital exclusion.⁶²
41. On October 27 2020, the eve of elections in Tanzania, NetBlocks Internet Observatory reported widespread disruption to social media and online communication platforms via multiple internet providers in Tanzania. A week earlier, TCRA had directed operators to suspend bulk SMS and telephony services during the election period.⁶³ It was reported that the internet was later restored, over a week after the elections on November 11, 2020. Internet shutdowns, especially during elections, pose a grave danger to the right to communicate and access information, undermining electoral process.

Right to Data Protection and Privacy

42. Article 16 of the Constitution provides that “every person is entitled to respect and protection of his person, the privacy of his own person, his family and of his matrimonial life, and respect and protection of his residence and private communications.”⁶⁴
43. Tanzania lacks a comprehensive legal framework which protects data privacy of citizens offline and online. The Data Protection and Privacy Bill tabled in 2014 has not been passed to-date. Nonetheless, mass data collection exercises (biometrics included) have been rolled out, including by the National Identification Authority (NIDA), National Electoral Commission (NEC) and telecommunication companies .

⁵⁸ Huawei, GCI Ranking Table 2020, available at: www.huawei.com/minisite/gci/en/country-rankings.html

⁵⁹ OSAA, “The 2030 Agenda for Sustainable Development”, available at: <https://www.un.org/en/africa/osaa/peace/sdgs.shtml>

⁶⁰ UN Sustainable Development Goals, “Take Action for the Sustainable Development Goals”, available at: <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

⁶¹ Paul Kimumwe, CIPESA, “Kenya, Tanzania and Uganda Must Do More to Improve Access to ICT for Persons with Disabilities”, 03/12/2019, available at: <https://cipesa.org/2019/12/kenya-tanzania-and-uganda-must-do-more-to-improve-access-to-ict-for-persons-with-disabilities/>

⁶² *Ibid*

⁶³ Netblocks, “Internet disrupted in Tanzania on eve of general elections”, 27/10/2020, available at: <https://netblocks.org/reports/internet-disrupted-in-tanzania-on-eve-of-presidential-elections-oy9abny3>

⁶⁴ Constitution of the Republic of Tanzania, Art. 16, available at: <https://rsf.org/sites/default/files/constitution.pdf>

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44. Under the Electronic and Postal Communications (Online Content) Regulations, 2020, regulation 13 requires owners of cafes to install CCTV cameras in internet cafes and to store images recorded for 12 months. The regulations also require the assignment of static public Internet Protocol (IP) addresses to computers in cafes and discourage usage of circumvention tools, such as Virtual Private Networks (VPN) which would otherwise enhance anonymity of users. Further still, applications for operating licences under regulation 6 requires a tax identification number certificate, national identity card and curriculum vitae. Regulation 12(b) also requires that academic qualifications of staff be filed by the applicant for a licence.
45. Regulation 17 imposes a duty of non-disclosure on any party holding users' information, by providing that any person employed by the Authority shall not disclose any information received or obtained during the exercise of its powers or performing its duties, except where the information is required by relevant authorities according to the law. However this section provides room for abuse of personal data, as the term "relevant authorities" and the parameters through which the information is released, are unclear and ambiguous.

Proposed Recommendations

1. Amend and repeal laws that inhibit freedom of expression, media and access to information on- and offline including;
 - a) Provisions of the Electronic and Postal Communications (Online Content) Regulations, 2020, criminalising online publications and charging exorbitant licensing and renewal of license fees for online content service providers.
 - b) Section 16 of the Cybercrimes Act which criminalises the publication of false information
 - c) Provisions of the Media Services Act that violate international and regional standards on freedom of expression and the media, including the onerous registration of journalists, criminal defamation, sedition and publication of false news in accordance with the ruling in East African Court of Justice, in the case of *Media Council of Tanzania & 2 Others vs AG*.
 - d) Sections 5 and 6 of the Access to Information Act, to allow non-citizens access to public information and to ensure that the restrictions to accessing information under section 6 are in line with international and regional standards.
2. Uphold citizens' rights to freedom of expression by discontinuing illegitimate bans on media platforms, end arbitrary arrests and detentions of journalists and human rights defenders
3. Refrain from prohibition of the publication of Covid-19 related news and information
4. Review and enact the Data Protection and Privacy Bill of 2014, through participatory and consultative process
5. Stop implementing network disruptions, including internet shutdowns and throttling, especially during elections and ensure that internet restrictions conform to international and regional standards limiting freedom of expression and access to information.