

# Upholding the Right to Access to Information by Countering Fake News in Tanzania

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## Abstract

The issue of fake news is basically not a new thing but it has been seen since historical times, the only issue currently is that the advancement of science and technology has brought about the increase of fake news due to the outburst of the social media platforms which basically stands as the new bridge of distribution of the information to a global audience. This brings us to the inevitable need to counter fake news much more strictly as they have currently become part of our daily lives due to the increase of science and technological advancements. Furthermore the spread and increase of publications of fake news has left the government of Tanzania with no choice but to step in and try to harmonize the situation at hand (fake news) due to the fact that the government is responsible for the welfare of the people and it is absolute duty of the government to ensure that the issues regarding fake news are dealt with through establishment and enactment of laws, regulations, policies and rules to regulate and govern the society by providing Order and prosperity of the Country in all aspects.<sup>i</sup> Despite the fact that the Tanzania's Government is responsible in ensuring that the problem of fake news is dealt with the Government shall be accountable to the people in doing so it should adhere to the requirements of the law, by enacting laws, regulations and policies that are sound and reasonable because a sound framework of the laws, regulation and policies can enhance security of information and the flow of information within the Nation. Therefore the call behind this paper is to examine what amounts to fake news, right to information in modern era, the role of the government regarding the right to information and aspect of fake news, major challenges currently, and finally how to strike a balance.

**Keywords:** Censorship, Fake news, Human Rights, Information privacy, Right to information, Unauthorized access , Unauthorized use of information.

## **Introduction**

Human rights are essential rights and freedoms that are entitled to every human being by the virtue of birth, they apply without considering where you are from, what your beliefs are and what kind of life style you live, they are inalienable although they can be sometimes taken away in some circumstance examples if someone breaks the law or interests of the public and national security.<sup>ii</sup>

According to the constitution of the United Republic of Tanzania, freedom of expression<sup>iii</sup> is one among the rights that every person being a citizen, and this right gives any person a chance to seek, receive and impart information but the **right/correct information** and it is the duty of the Government to ensure the protection of those rights.<sup>iv</sup> The Constitution of Zanzibar explicitly protects only the right to receive information, not the right to seek or impart it.<sup>v</sup>

Fake news in simple definition is any information that is inaccurate, insensitive, misleading, deceiving and intending to gain attention or damage a reputation. Currently fake news has become an issue since the development of science and technology made it to be a global problem affecting most countries including Tanzania due to the fact that it has been very difficult and nearly impossible to distinguish fake from real and correct news. As indicated above the issue of fake news is not new at all it was there before but the outburst new online platforms and blogs have made it easier to spread without limit.

Tanzania is one among the most affected countries due to the increase of social media platforms at this point has brought a lot of doubt as to which information is genuine and which ones are fake this is because most journalist ill-use their right of expression, publicize fake news and the public has seemingly been impacted by such news. Unlike misrepresentation or misinformation, which happens because the reporter inaccurately mixed wrong information for a real one genuinely/honestly did not intend to deceive or manipulate the audience to believe

it, fake news is created with the intent to mislead and damage the intended targeted audience with malice.<sup>vi</sup>

Fake news spreads more quickly because when the fake information is aligned with the audience's opinion that the information's integrity is not likely to be questioned, the current years the advancement of technology has made is easier and accessible to anyone with the internet to own channels and social media platforms at a lower cost giving an absolute chance for publication of the fake news. These channels allow posting of fake news, discussion of the fake news allowing the people a chance to subscribe and finally comment and the only requirement is technical know-how. Social media websites have proven to be an easily accessible venues for the distribution of the fake news. Fake information can be tweeted and posted from any device with internet and quickly distributed to a global scale and the audience may post and repost the information keep on sharing such news.<sup>vii</sup>

Furthermore, some fake news creators and distributors focus on political or social agendas, while others focus on more integral matters like health and economic agendas, using the fake news to deceive the audience and making money in the process of advertisement of their fake news and adding more ads which allows the audience to bypass to other web-pages with more propagandas and worse pornographic materials which may even be very dangerous to the viewers especially the children. When fake news is used it can be dangerous to the public shaping opinion and behavior and it can also cause mistrust, encourage dissent and deflect attention from real news.

During the year 2016 presidential election in US in response to criticism based on failure to curb the spread and distribution of fake news, the US government responded by forming a first draft which focused on major media outlets to educate the Internet users about how to spot fake news. Facebook and Google have taken steps to crack down on disinformation. They also made efforts by creating independent fact-checking websites, analyzing and assessing ways to spot fake news by verifying new information especially in platforms example Wikipedia which allows any internet user to remove and add new information.

The advance of technology has led to the spread and increase of publications of fake news of which it has reached a position the government of Tanzania has no choice but to step in and try

to harmonize the situation at hand (fake news) being the primary objective of the Government to ensure the welfare of the people and the Government shall be accountable to the people.<sup>viii</sup>

### ***Right to information in modern era***

In modern era the aspect of information carries a huge significance but talking about issue of information the focus must be addressed to the following things the right to access information and the right to privacy especially when it involves protection and access of personal data.

The issue of right to information and access to information aligns with the aspect of information security. The information security domain carries a tremendous challenge in recent years due to the emergence of new threats going along with the advancement of technology. Information security is one of the most integral part of the today's cyber environment basically because of the internet and advancement in networking between people all over the world.

Information security is facing a severe 'easy attack' and 'hard to defend' challenges of which the people and the government are forced to adapt to the current technologies in order to be able to face the challenges head-on, before we used traditional ways of defenses which now are seemingly useless and the challenges keeps on materializing due to the fact that defense methods we used before no longer operational to the cyber space and they have always been static and behind the cyber-attackers.

The cyber attackers are sophisticated in exploiting the systems vulnerabilities and the longer the attacker stays within the system it makes more difficult for the cyber defenders to contain and expel them from the cyber domain, the result are very severe and long-lasting effect.

The provision of *Article 18<sup>ix</sup>* clearly addresses every person that the rights to freedom of expression without forgetting the right to seek, receive and imparts information which aligns perfectly with provision of *Article 16<sup>x</sup>* of the constitution provides for Privacy is a basic right, which permits individuals to decide the manner, and extent to which information concerning them should be shared with others.

However, in some occasions when the public interest is declared then the right to privacy of an individual may be overridden although in such circumstances, the facts must be scrutinized as to whether there is a reasonable ground for disclosure of the information.

### ***Principles of information security***

Information security (IS) being one among the most pressing matters at hand in modern era it requires advanced personnel who a qualified to curb and be able to handle the cyber adversaries in this case fake news reporters. Information security is basically designed to protect the confidentiality, integrity and availability of computer system data against those with malicious intentions (in this case even the government)<sup>xi</sup>

In other words, the above mentioned may be termed as objectives or principles of information security; CIA

- i. **Confidentiality**, this basically means that the information on the web remains private and trusted of which we shall require the use of password protection and encryptions
- ii. **Integrity**, this focuses on the idea that when the data is read it should be read as the way it was written in the first place to ensure that the message is not changed or modified in the course of transmission
- iii. **Availability**. This principle basically shows that for any data or information to serve its purpose it must be available and accessible

In order to ensure that the information access, protection and privacy stay intact then the above principles have to be adhered by the individuals and the government.

### **The Role of the Government Regarding Right to Information and Issue of Fake News**

The Constitution of Tanzania provides for freedom of speech<sup>xii</sup> however various laws encourage self-censorship that within the finish limits the correct to freedom of expression, i.e. limit the power of the media to perform effectively and a few might contemplate this to be infringement of the right to freedom of speech because it is that the governmental responsibility

once it involves matters of the welfare of the people inside the state and the national security.

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### ***Government Involvement and Interference with the Right to Freedom of Expression and Right to Access Information***

The Government has been exploiting the notion of public interest and national security to censor the flow of knowledge in Tanzania, by providing limits through enactment of laws and policies that limits the right to freedom of expression in this case favors the government a lot than the general public. In other words, the laws that are enacted by the government aims at censoring some information (which might/which can) profit the general public and it's their right to understand however such information may hinder the facility and management of the government (misuse of governmental authority).

The most infamous and wide implemented of those laws is that the 1976 Newspaper Registration Act<sup>xiv</sup>, that empowers authorities to ban publications “in the interest of peace and smart order”. The year 2015, different Authorities used the Newspaper Registration Act to suspend several publications of the weekly East African Newspaper, with reasons that the registration license had expired and the suspension took years. Another Act that was used at that time to restrict some activities and allowed government to take action was the National Security Act<sup>xv</sup>, which gave power to the government to take actions against any type of information considered classified.<sup>xvi</sup>

In 2003 Tanzania Communications Regulatory Act<sup>xvii</sup> established a legal framework to regulate Tanzania's broadcast and Medias which are in electronic form. The Tanzania Communications Regulatory Authority (TCRA) is established by the Act. The Authority stands as an independent body which has the authority to issuing broadcast licenses and monitoring stations by opening and closing them. Although it is said to be independent but still some facts shows that TCRA may be subject to government influence because the chairman and even the vice chairman are appointed by the president while others like the Director General and four other board members are appointed by the communications minister.<sup>xviii</sup>

***Enactment of new legislations by the government to facilitate the censorship of information in Tanzania***

“Censorship may be referred as the changing or the suppression or prohibition of speech or writing that is deemed subversive of the common good,<sup>xxix</sup> it occurs at some point in any authority and basically in modern era the government uses it as a special way to ensure rule of law is adhered.<sup>xx</sup> The government use censorship to review and remove or hide some parts of information which are considered to be fake and, in this case, unacceptable in the society. By the year 2015 and 2016 the government did not hesitate to enact several laws which assisted it on monitoring, control and administer freedom and regulation of media in Tanzania.

These are several laws that have been enacted in the years 2015 to 2016 to assist the government to curb the issue of fake news. Those laws are; The Cybercrimes Act, 2015,<sup>xxi</sup> The Statistics Act, 2015,<sup>xxii</sup> The Media Services Act, 2016<sup>xxiii</sup>, and The Access to Information Act, 2016<sup>xxiv</sup>.

The claim by the Tanzania government is that the four above mention Acts were highly required and needed to facilitate access to information also to curb fake news and controlling media sectors at large, but some of the politicians and activists argued that the Acts were established to directly limit and affect the freedom of media and some point limit the speech of the citizens which is basically against the constitution<sup>xxv</sup> because the Acts gave the Authority to the Minister responsible for information the power to ban any media which is considered to be contrary to the law and threatens peace in the state.

- The Statistics Act, 2015

March 2015, the parliament passed the Statistics Act<sup>xxvi</sup>, that primarily imposes criminal sanctions to the offenders together with jail terms and high fines for the publication of any false statistics or any statistical information for that matter while not previous authorization from the National Bureau of Statistics<sup>xxvii</sup>

However by the end of 2018, September the Statistics Act 2015 was amended, and the amendment covered provisions of Section 24A (2) <sup>xxviii</sup> and Section 37 (4) <sup>xxix</sup>

- The Cybercrimes Act, 2015

Soon after the establishment of the Statistics Act In April 2015 Cybercrimes Act<sup>xxx</sup> was passed by the parliament. The Act stood as a basic line that helped the tackling of cyber activities which were basically wrong and offensive as it provided for sanctions such as imprisonment and fines depending on the nature of the offense covering the publication of false information as provided under *Section 16*.<sup>xxxi</sup>

- The Media Services Act, 2016

November 2016 the parliament of the united republic of United Republic of Tanzania enacted The Media Services Act, 2016,<sup>xxxii</sup> and signed by President John Pombe Magufuli simply period later. The Act replaced the restrictive Newspaper Act of 1976 after administering that the legislation restricted press freedom in Tanzania. The Expectation to several people was that, the Act would to become associate updated media law which will adapt to international conventions like United Nation Declaration of Human rights (UNDHR), East African Community Treaty and others subject liberty to access data however unexpectedly the Acts looks to several as depriving of civil constitutional rights like freedom of expression and freedom of obtaining data.

The Media Council of United Republic of Tanzania (MCT), Legal and Human right Centre (LHRC), and United Republic of Tanzania Human Rights Defenders Coalition (THRDC) on 2017, January 11<sup>th</sup> filed a petition at the East African Court of Justice (EACJ) to challenge the fresh passed Media Service Act, 2016. The team of lawyers from MCT, LHRC and THRDC square measure difficult sections of the Media Services Act, 2016<sup>xxxiii</sup> that gave the impression to deprive the civil liberties to access and obtaining information.

According to the constitution of United Republic of Tanzania *Article 18 (a), (b), (c) and (d)*<sup>xxxiv</sup> Some disadvantaged constitutional civil rights by the Media service Acts are;

- a. Freedom of opinion and expression ideas
- b. Right to inquire, receive and, or diffuse data despite national boundaries;
- c. Freedom to speak and a freedom with protection from interference



- d. Right to be told in the slightest degree times of varied necessary events of life and activities of the people and additionally aspects which are of importance to the society
- The Access to Information Act, 2016

Tanzania failed to have a law guaranteeing access to data/information till 2015 once a draft access to information bill was submitted to parliament, however was withdrawn in June unfinished more consultation with media and civil society teams. Critics noted substantial deficiencies within the draft, together with that data/information obtained through its procedures couldn't be for "public use" which the publication of such data would be a criminal offense subject to jail time. Meanwhile, variety of current Tanzanian laws, like the Civil Service Act and also the Public Leadership Code of Ethics Act, removed access to information by putting legal restrictions on the power of public officers to supply sure data to the media.

September 2016, the Access to Information Act<sup>xxxv</sup> was passed into law by the Tanzanian parliament. This was amended a bit from the bill that had been bestowed to the Tanzanian parliament for presentation on June 2016, and revised well from a bill the government planned to issue before parliament in 2015 beneath a certificate of urgency however that was withdrawn following media and public pressure.

Legislation facilitating public access to information was a symbol of commitment of Tanzania's Open Government Partnership (OGP) Action set up for 2014-2016. Such a law might, in theory, go further towards transfer the government nearer to the people by permitting the general public, civil society, the media and others to better perceive what the government is doing, and inspiring a lot of and higher public participation in higher cognitive process processes.<sup>xxxvi</sup>

The Access to data Act is a chance to allow bigger aiming to clauses within the Tanzanian Constitution, specifically Articles 18(1)<sup>xxxvii</sup> and 18(2)<sup>xxxviii</sup> that give for the proper to right to access information

### Criticism of Access to Information Act:

The Act permits a broad exemption in cases wherever another law governs the handling access of information<sup>xxxix</sup> of that it considerably weakens the Act as a result of within the Tanzanian case, the opposite laws take precedence in contrast to In international best practice, access to information laws obtains priority over any other legislation in issues wherever the laws conflict.

The Act also provides for the procedure for appeals against decisions of information holders of which incorporates a transparent conflict of interest.<sup>xl</sup> The overwhelming majority of attainable cases, the ultimate call on such appeals rests with the Minister accountable for legal affairs creating it terribly easy for the government to withhold any data if it needs to try and do so. A stronger system for appeals it would have been best to be handled by the courts.

- **The Electronic and Postal Communications (EPOCA) (Online Content) Regulations, 2018**

On March 13/ 2018 this regulation<sup>xli</sup> was issued be a part of a listing of legislation associated with online content in United Republic of Tanzania that threatens citizens' constitutionally secured rights to privacy and freedom of expression. The regulation/rules are possible to negatively impact on existed liability landscape in Tanzania the fact that there is increasing media maltreatment of state critics.<sup>xlii</sup>

When the United Republic of Tanzania Communications Regulatory Authority (TCRA) at the start revealed the draft regulations last September of 2018, they didn't have the need to use for online content service licenses as taken off in *Regulation 14<sup>xliii</sup>* of the enacted regulations.

Candidates/applicants are needed to produce their company details as well as physical address, material possession, citizenship of shareholders/directors and tax registration. The communications regulator, TCRA, has the proper authority to cancel licenses over non-compliance the regulations that are issued are very regressive than the draft that the regulator issued in Sept 2017 for public views. Many subsequent provisions are seen to be regressive from the draft version which was conjointly passed. Through the following provisions the government managed to minimize the spread of fake news in Tanzania using the Electronic and Postal Communications (EPOCA) (Online Content) Regulations, 2018, although the

following provisions have been considered to be regressive, those provisions include *Regulation 6(1)<sup>xliv</sup>, Regulation 8(b)<sup>xlvi</sup>, Regulation 5(1)(g)<sup>xlvi</sup>, Regulation 16<sup>xlvi</sup>, Regulation 5(1)(e)<sup>xlvi</sup> and Regulation 12<sup>xlvi</sup>*

Apart from the regressive provisions the regulation has also addressed some provisions that have proven to be advantageous and acquired positive reaction, those provisions include are; *Regulation 13<sup>l</sup> Regulation 11<sup>li</sup>*

### **Current Challenges in Implementing the Right to Information**

Existence of new legal actions and regulations that basically restrict free journalism in Tanzania. These include the 2015 Cybercrimes Act,<sup>lii</sup> also the 2016 Media Services Act,<sup>liii</sup> these legislations restrict the Right of the Journalists to explore in pursue of the truth, they provide for strict punishments to the ones considered to be offenders in this case the Government has power because it uses the law to censor information which the public is needed to know in full details by silencing the Journalists with fear and threats.

The right to freedom of information<sup>liv</sup> is infringed because if the journalist over steps and stumble into some critical information the Government can use the law and change the content of the information and declare it to be false information and the Journalist can be found guilty of providing false information as per *Section 16* of the Cybercrimes Act.<sup>lv</sup>

Another legislation that restricts the freedom of Journalists is The Access to Information Act,<sup>lvi</sup> the Act provides for penalty for the one that discloses or releases information to the general public, the key concern here with the penalties for data holders act in resistance of the Act for incorrectly releasing information is severe 3 to 5 years' imprisonment whereas there are no any penalties addressed for incorrectly withholding data. The motivation for information holders is so terribly clear by releasing data you're taking a giant risk, it's so much safer to refuse to try and do the required.<sup>lvii</sup>

Example in May 2018, 65 civil society organization wrote a letter to the late President John Magufuli addressing extreme decline of press freedom and human rights violation in the

country. The letter needed the reopening of prohibited flow of news and interference in their operations; legal reform to ensure freedom of expression and therefore the media; and investigations into physical attacks against reporters.

Furthermore, the lack of an independent Information Commission additionally means that there are not any provisions for promotion or watching of the Act<sup>lviii</sup>. With no such provisions, significantly for monitoring, it'll be terribly difficult and nearly impossible for anyone to assess however well the law is being enforced, determine/to spotting smart and unhealthy practice or to identify and resolve issues.

Moreover, the electronic and postal communications regulations enacted in 2018<sup>lix</sup> have proven to be targeting forums, blogs, and streaming websites as they are forced to pay heavy registration fees because if they fail to do so, they risk imprisonment or heavier fines.<sup>lx</sup> Without forgetting “Any one that desires to produce online content services shall fill in AN form as prescribed within the initial Schedule and pay fees as taken off within the Second Schedule to those rules.<sup>lxi</sup>

Finally, the Citizens and news reporters disappearances is also a threat; A good example was **Azory Gwanda** who was a Freelance journalist. He disappeared in 2017 and his wife stated that his disappearance may be linked to his reporting on killings in Tanzania’s coastal region, it well known that Journalists lives are in danger and at some point they may have censored some of critical information out of fear and threats from the government and one may even say that sometimes they are under physical and digital government surveillance due to this the public receives information with basic holes and real stories are not told in this case the public is not properly informed and sometimes even misled.<sup>lxii</sup>

## **Conclusion**

Although the government has taken efforts so far by establishing laws and regulations to protect and prevent the spread of fake news but it remains to be seen how the new regulations will be enforced and how they will impact on citizens’ rights online. However, given Tanzania’s history on the aspect of internet security and online access following the enactment of the

Cybercrime Act, 2015<sup>lxiii</sup>, the new regulations are likely to be utilized to further undermine the internet freedom situation in the country.

It is suggested that the government should partially be involved and interfere only when it is necessary and its matter of public safety and security, this is to allow freedom of expression while at the same time be able to tackle and curb fake news without meddling with personal lives of the citizens. On the same note the government should not ill-use the authority it's given by censoring information that is significant to the society but instead it should stand fair to the citizen's need as per *Article 8* of the constitution of the United Republic of Tanzania<sup>lxiv</sup> that clearly states that it is the duty of the government to ensure the citizen's rights are protected and issued accordingly.

### **Recommendations: How to Strike a Balance Between the Right to Access Information and the Government Involvement to Tackle the Issue of Fake News**

1. The government should exercise its authority without interfering with the right to freedom of expression. The idea is to enact government policies that maximize the advantages of state involvement only when necessary (censorship) without overstepping which may lead to infringement of the constitutional right underneath *Article 18<sup>lxv</sup>* of the constitution of Tanzania therefore on permit innovation and creative thinking of the people and therefore the answer is found in an exceedingly balanced approach that involve laws that protects and limits each government and people generally.
2. The law ought to be strict where the matter is proven that one among the information providers have given or addressed a fake news, the offender should be dealt with immediately and the fake information should be taken down cautiously and immediately in order to protect the society's view and also protect the reputation of the publishing agencies in a world scale. The conditions and rules should be adhered so as to allow order to prevail
3. The government should to minimize its involvement within the flow of information, which means that the government involvement should not degrade the freedom of the press but rather support them and provide them with regulations that are actually reasonable enough to be able to operate independently.

4. Purposeful enhancements for press freedom in United Republic of Tanzania should not be unnoted. As a result of if the press freedom is protected it will permit them to figure without worrying and it will encourage publication of real news rather than fake news and it is additionally necessary that credible investigations and journalists with license ought to be the one to portray and deliver the accurate information to the general public
5. The government should advance their technological infrastructure so as to allow a chance for the ones combating illegal acts online to be able to counter the attacks, this must include computer security infrastructures and introduce new forums which will be real and genuine to allow the citizens to know where to retrieve true and correct information. Government cyber-security policies should take under consideration these options of the protections and security, there are variety of steps governments may consider to improve pc security, while not meddling with technical style choices.
6. The government ought to co-operate totally with the private sectors in most countries some or all elements of the communications network and lots of the essential infrastructures supported pc systems (banking, transportation, energy, producing, etc.) are private and operated by the private sector. Therefore, abundant of the responsibility for making certain the protection of those systems lies with the private sector.
7. Institution of latest regulations, policies and rules by the government that are mainly focused on freedom of expression and also to strike a balance on what is authorized to be published and what shouldn't if it is the matter of national and welfare of the state. A well-established law can law can strike a balance that will enhance the information security while allowing free flow of information and basically also allow identification of future cyber threats.

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<sup>xxv</sup> Article 18 of the Constitution of the United Republic of Tanzania of 1977 [CAP 2 R.E. 2005] as amended from time to time

<sup>xxvi</sup> The Statistics Act No.9 of 2015

<sup>xxvii</sup> <https://freedomhouse.org.report.freedom-press.tanzania>, Accessed on August 28<sup>th</sup>, 2019

<sup>xxviii</sup> “A person shall not collect statistics through surveys or censuses, and shall not disseminate or otherwise communicate to the public any statistical information, except with approval of Statistician General”. Section 24A (2) of The Statistics Act No.9 of 2015 as amended in 2018

<sup>xxix</sup> “There is a penalty of TZS 10 million, or imprisonment of minimum 3 years, or both, for any person who publishes or causes to be published or communicates any official statistic or statistical information contrary to the Act”.

<sup>xxx</sup> Cybercrimes Act No.14 of 2015

<sup>xxxi</sup> “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, and 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”. Cybercrimes Act No.14 of 2015

<sup>xxxii</sup> The Media Services Act, No.12 of 2016

<sup>xxxiii</sup> *ibid*

<sup>xxxiv</sup> The Constitution of the United Republic of Tanzania of 1977 [CAP 2 R.E. 2005] as amended from time to time

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<sup>xxxvi</sup> <https://www.twaweza.org.analysis-on-ati>, Accessed on August 28<sup>th</sup>, 2019

<sup>xxxvii</sup> “Without prejudice to expression the laws of the land, every person have the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers, and also has the right of freedom from interference with his communications.”

<sup>xxxviii</sup> “Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society.”

<sup>xxxix</sup> Section 5 (3) of The Access to Information Act, No. 6 of 2016

<sup>xl</sup> Section 19 (3) of The Access to Information Act, No. 6 of 2016

<sup>xli</sup> The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2022

<sup>xlii</sup> <https://www.cipesa.org/2018/04/tanzania-enacts-regressive-online-content-regulations>, Accessed on August 28<sup>th</sup>, 2019

<sup>xliii</sup> “Any one that desires to produce online content services shall fill in AN form as prescribed within the initial Schedule and pay fees as taken off within the Second Schedule to those rules.” of The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>xliv</sup> Regulation 6(1), Requires authorized service providers who administer online content or facilitate online content production to terminate or suspend subscriber accounts and take away content if found in dispute of the rules, within twelve hours from the time of notification by TCRA or by an affected person. This demand places an important technical and human resource burden on content hosts and providers to possess competencies to handle complaints within twelve hours. The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>xlv</sup> Regulation 8(b), Swift content restriction or removal is also required of online content hosts under and content providers, The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>xlvi</sup> Regulation 5(1)(g), Swift content restriction or removal is also required of online content users Example while content such as revenge pornography and that which promotes violent extremism may be justifiably removed promptly; there is a danger that the regulations may be applied unjustifiably to content such as that relating to exposure of corruption or human rights violations, The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>xlvii</sup> Regulation 16, provides for a complaints handling procedure, the regulations do not provide for the process nor mechanisms for legal recourse over contested content The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>xlviii</sup> Regulation 5(1) (e), requires content providers to “have in place mechanisms to identify source of content”. This obligation poses a threat to the right to anonymity and whistleblowing and may lead to self-censorship, The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

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<sup>xlix</sup> Regulation 12, covers content prohibited from publication lists restrictions with broad definitions and which have potential to limit freedom of expression also prohibits publication of “false content which is likely to mislead or deceive the public except where it is clearly pre-stated that the content is i) satire and parody ii) fiction; and iii) where it is preceded by a statement that the content is not factual.”, The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>l</sup> Regulation 13, provides important safeguards for child protection online, such as which prohibits children’s access to prohibited content online, The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>li</sup> Regulation 11, provides a boost to privacy and data protection, it prohibits unauthorized disclosure of “any information received or obtained” under the provisions of the regulations, except where the information is required for law enforcement purposes. Furthermore, the same regulation restricts use of information only to the “extent” that is “necessary for the proper performance of official duties.” Nonetheless, in the absence of data protection and privacy legislation in Tanzania, these safeguards could be rendered of little value and hence prone to abuse, The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2018

<sup>lii</sup> Cybercrimes Act No.14 of 2015

<sup>liii</sup> The Media Services Act, No.12 of 2016

<sup>liv</sup> Article 18 of the Constitution of the United Republic of Tanzania of 1977 [CAP 2 R.E. 2005] as amended from time to time

<sup>lv</sup> Cybercrimes Act No.14 of 2015

<sup>lvi</sup> The Access to Information Act, No. 6 of 2016

<sup>lvii</sup> Section 6 (6)(a) of The Access to Information Act, No. 6 of 2016

<sup>lviii</sup> The Access to Information Act, No. 6 of 2016

<sup>lix</sup> The Electronic And Postal Communications (EPOCA) (Online Content) Regulations, 2022

<sup>lx</sup> Available at <https://theconversation.com/magufuli-has-steadily-tightened-the-noose-on-media-freedom-heres-how-109806>, Accessed on 25<sup>th</sup> July 2022

<sup>lxi</sup> Regulation 14 of The Electronic and Postal Communications (EPOCA) (Online Content) Regulations, 2022

<sup>lxii</sup> Available at <https://www.thecitizen.co.tz/tanzania/magazines/political-reforms/this-is-how-to-ensure-media-freedom-in-tanzania-2668496/> accessed on 25<sup>th</sup> July 2022

<sup>lxiii</sup> Cybercrimes Act No.14 of 2015

<sup>lxiv</sup> the Constitution of the United Republic of Tanzania of 1977 [CAP 2 R.E. 2005] as amended from time to time

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