

SPECIFIC CONSIDERATIONS OF THE IMPACT OF COVID-19 ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN UGANDA AND TANZANIA

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ABSTRACT

The paper analyses the impact of the Corona Virus Disease (COVID-19) freedom of expression (FOE) and access to information (ATI). The paper a two country approach with the aim of analysing and comparing the impact of COVID-19 on FOE and ATI. Specifically, Uganda and Tanzania are the respective measures aimed at preventing and containing COVID-19 are chosen. The paper delves into the specific actions undertaken by the two countries in Eastern Africa to prevent and contain the pandemic but with monumental impact on the protection, enjoyment and promotion of FOE and ATI in the two countries. The paper employs an analytical and comparative approach over the positive and negative impacts of the various measures undertaken in the two countries by both the State and non-state actors on FOE and ATI. Specifically, the paper analyses measures including: preventing false news and disinformation, the role of social media, crack down on journalists, loss of employment affecting the journalism profession and practice, restrictions on movements through imposing bans on public transport and imposing curfews, contact tracing of COVID-19 suspects and the chilling effect on FOE, the future of FOE and ATI amidst the upcoming General Elections, compulsory programming audio and audio visual media, the role of the private communications sector, impact of closure of academic and education institutions on FOE and ATI and the role of the music industry in providing information on COVID-19. The paper will concludes that there a clear clash between the containment and prevention of COVID-19 and Freedom of expression and access to information. To the extent, the paper notes that COVID-19 measures have immensely narrowed the civic space within which FOE and ATI are enjoyed. Finally, the paper recommends the alignment of the all alike measures with the international and regional human rights instruments, independence of the communications sector, embracement of e-learning, de-ligislation of laws, directives, regulations, rules policies and guidelines that limit access to the internet, the enhancement of individual data protection and privacy, immediately end all restrictions on the FOE and ATI upon the end of COVID-19 era and provision of affordable internet.

Background

The Corona Virus Disease (COVID-19) outbreak in 2019 inform of a rare strand of pneumonia in Wuhan in China.¹ Consequently, COVID-19 having been declared a Pandemic by the World Health Organisation has become a global challenge.² To this end, by the end of June 2020, there were 9,962,193 confirmed cases, 498,723

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- 1 Aljazeera, "Timeline: How the New Coronavirus Spread," available at <https://www.aljazeera.com/news/2020/01/timeline-china-coronavirus-spread-200126061554884.html> (accessed 31 May 2020).
- 2 BBC, "Coronavirus Declared Global Health Emergency by WHO," BBC, 31 January 2020, available at <https://www.bbc.com/news/world-51318246> (accessed 31 May 2020).

confirmed fatalities in 216 Countries, areas or territories had registered cases.³ Further, Africa has had its own share of COVID-19 with over 382,190 confirmed cases and over 9664 fatalities.⁴ Governments have taken measures including: compulsory lockdowns, quarantines and curfews, limitations on public gatherings and bans on both private and public transport including international travels;⁵ and closure of entertainment,⁶ sporting activities,⁷ and educational institutions;⁸ as means to contain COVID-19. Consequently the social, political and economic lives of the individual have been massively affected.

In Uganda the aforementioned measures are grounded in among others, the president's addresses on avoiding COVID-19 and the State of COVID-19.⁹ In Tanzania they are traceable in various sources indicating orders and directives.¹⁰ In this paper, the impact of COVID-19 on freedom of expression (FOE) and access to information (ATI) in Uganda and Tanzania is explored.

Freedom of Expression and Access to Information in Context

Freedom of expression (FOE) and access to information (ATI) are informed by variety of theories including freedom of speech and expression and the free market

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- 3 World Health Organisation, "Coronavirus Disease (COVID-19) Pandemic," 29 June 2020, available at <https://www.who.int/emergencies/diseases/novel-coronavirus-2019> (accessed 29 June 2020).
 - 4 Abdur Rahman Alfa Shaban, "Coronavirus in Africa: 141,599 Cases; 4,070 Deaths; 59,191 Recoveries," *Africa News*, 29 June 2020, available at <https://www.africanews.com/2020/05/31/coronavirus-in-africa-breakdown-of-infected-virus-free-countries/> (accessed 29 June 2020).
 - 5 Aljazeera, "Coronavirus: Travel restrictions, border shutdowns by country," available at <https://www.aljazeera.com/news/2020/03/coronavirus-travel-restrictions-border-shutdowns-country-200318091505922.html> (accessed 31 May 2020).
 - 6 Stefan Hall, "Empty stadiums and online streaming: how coronavirus is affecting the media industry" *World Economic Forum*, 13 March 2020, available at <https://www.weforum.org/agenda/2020/03/covid-19-coronavirus-media-entertainment-sports/> (accessed 31 May 2020); see also, Alissa Wilkinson, "How the coronavirus outbreak is roiling the film and entertainment industries," *Vox.com*, 20 April 2020 available at <https://www.vox.com/culture/2020/3/10/21173376/coronavirus-cancel-delay-pixar-disney-batman-dc> (accessed 31 May 2020).
 - 7 Joseph Zucker "Timeline of Coronavirus' Impact on Sports," available at <https://bleacherreport.com/articles/2880569-timeline-of-coronavirus-impact-on-sports> (accessed 31 May 2020).
 - 8 UNESCO, "COVID-19 Educational Disruption and Response," available at <https://en.unesco.org/covid19/educationresponse> (accessed 31 May 2020).
 - 9 Presidential Statements, "Guidelines on avoiding the corona virus pandemic," *The State House of Uganda*, 18 March 2020, available at <https://www.statehouse.go.ug/media/presidential-statements/2020/03/18/guidelines-avoiding-corona-virus-pandemic> (accessed 1 June 2020); see also, Press Releases, "More guidelines on COVID19, preventive measures & the need for a shut down - President Museveni," *The State House of Uganda*, 30 March 2020, available at <https://www.statehouse.go.ug/media/press-releases/2020/03/30/more-guidelines-covid19-preventive-measures-need-shut-down-president> (accessed 1 June 2020); H.E. Yoweri Kaguta Museveni President of the Republic of Uganda, "Address to the Nation: Latest Updates on Matters Regarding Corona Virus (COVID-19), 4 May 2020" available at <http://statehouse.go.ug/sites/default/files/files/presidential-statements/address-corona-virus-4-may-2020-converted.pdf> (accessed 1 June 2020).
 - 10 Africa News, "Coronavirus - Tanzania: Campaign for Education and Information in COVID-19 Crisis in Tanzania," 7 April 2020, available at <https://www.africanews.com/2020/04/07/coronavirus-tanzania-campaign-for-education-and-information-in-covid-19-crisis-in-tanzania/> (accessed 1 June 2020); see also, Giza Mdoe, "Corona Virus Update: Tanzania Schools to Stay Closed Indefinitely" *The Exchange*, 16 April 2020, available at <https://theexchange.africa/countries/tanzania/coronavirus-update-tanzania-schools-to-stay-closed-indefinitely/> (accessed 1 June 2020); Benjamin Ben, "JPM Hints At League Resumption," *Daily News*, 4 May 2020, available at <https://dailynews.co.tz/news/2020-05-045eafb82324bf.aspx> (accessed 1 June 2020).

of ideas which speaks to democracy and free will.¹¹ Similarly, normative behaviour which tries to explain social constructs between status, social beliefs and information needs and demands draws much to understanding FOE and ATI.¹² It should further be observed that FOE and ATI are critical for accountability and transparency especially of government for social, political and economic transformation.¹³ These concepts together with others not specifically highlighted enumerate the importance of FOE and ATI in governance and development.

Internationally, FOE and ATI are recognised as fundamental human rights and are imbedded in regional and international human rights instruments. Both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) provide for FOE and ATI in articles 19.¹⁴ On the African continent, article 9 of the African Charter on Human and Peoples Rights entitles every individual to ATI and FOE. The protection of FOE/ATI in Africa extends and is grounded in a number of instruments and soft laws including; African Charter on Democracy (article 19), African Union Convention Against Corruption, Elections and Governance (articles 9 and 12 (4)), African Charter on Values and Principles of Public Service and administration (article 6), African Union Youth Charter (articles 10 (3d) and 11 (2i)) and the African Statistics Charter (article 3). Further reference can be drawn from the Resolution on the Adoption of the Declaration of Principles on Freedom of Expression in Africa (2019).¹⁵ Similar recognition and protection in other jurisdictions including the American Charter on Human Rights (ACHR) (article 13 and 14), article 4 of the American Declaration of the Rights and Duties of Man of 1948, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (article 10), Asian Human Rights Charter (AsHRC) (articles; 7.2, 13.1 and 15.2f) on ATI, and the Association of South East Asian Nations Human Rights Declaration (article 23). Notably, as early as 1946, the United Nations

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- 11 Oltmann, Shannon M. "Information access: Toward a More Robust Conceptualization." *Proceedings of the American Society for Information Science and Technology* 46, no. 1 (2009): 1-17; Gordon, Jill. "John Stuart Mill and the Marketplace of Ideas", *Social Theory and Practice* (1997): 235-249; Braddon Mitchell, David, and Caroline West. "What is Free Speech?" *Journal of Political Philosophy* 12, no. 4 (2004): 437-460; Cramer, Benjamin W. "The Human Right to Information, the Environment and Information about the Environment: From the Universal Declaration to the Aarhus convention." *Communication Law and Policy* 14, no. 1 (2009): 73-103. Lor, Peter Johan, and Johannes J. Britz. "Is a Knowledge Society Possible without Freedom of Access to Information?" *Journal of information Science* (2007); Jaeger, Paul T. "Information Policy, Information Access, and Democratic Participation: The National and International Implications of the Bush Administration's Information Politics." *Government Information Quarterly* 24, no. 4 (2007): 840-859; and Corredoira, L. (2007). A New Reading of article 19 of the UDHR (1948) in Our Information Societies. MCR, 3 (3), 336-341.
- Burden, Paul R. "The Key to Intellectual Freedom is Universal Access to Information." *American Libraries* 31, no. 8 (2000) 46-49; Hamilton, Stuart, and Niels Ole Pors. "Freedom of Access to Information and Freedom of Expression: the Internet as a Tool for Global Social Inclusion." *Library Management* 24, no. 8/9 (2003): 407-416.
- 12 Chatman, Elfreda A. "Framing Social Life in Theory and Research." *The New Review of Information Behaviour Research* 1, no. December (2000): 3-17; Pendleton, Victoria EM, and Elfreda A. Chatman. "Small World Lives: Implications for the Public Library." *Library Trends* 46, no. 4 (1998): 732-751
- 13 Kuper, Andrew. *Democracy beyond Borders: Justice and Representation In Global Institutions*. (New York: Oxford University Press, 2004); Cambridge Studies in the Theory of Democracy, "Democracy and the Rule of Law", Eds. Jose Maria Maravall and Adam Przeworski, (Cambridge: Cambridge University Press, 2003).
- 14 See also, Declaration on the Rights of the Child (article 13(1) and article 17) and the Declaration on the Rights of Indigenous People (article 15).
- 15 African Commission on Human and Peoples' Rights, "The Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019," available at https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression_ENG_2019.pdf

passed a General Assembly Resolution, 59 (1) which, *inter alia*, declared that ATI is a cornerstone of other human rights and freedoms.¹⁶

National Safeguards and Guarantees

Nationally, the constitutions of the two countries imbed the FOE and ATI. In the Constitution of the Republic of Uganda, 1995 (Uganda Constitution), FOE is provided for under article 41 of the Uganda Constitution, every citizen is entitled to access to public information for along as it does not prejudice national security or sovereignty or interfere with the right to the privacy of the person. Further, in 2005, Uganda enacted the access to information Act (Uganda ATIA) to operationalize article 41. Amongst the purpose of the Act under section 3 is to promote an efficient, effective, transparent and accountable Government and enable public participation in government decisions. Further, article 29(1)(a) provides for the right to freedom of expression which also includes of freedom of the press and other media.

The Constitution of the United Republic of Tanzania, 1977 (Tanzania Constitution) under article 8 provides for the right to freedom of opinion and expression of ideas. The right extends to seeking, receiving and disseminating information regardless of national boundaries. It also includes the freedom to communicate and most interestingly, it provides for the right of every individual 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. In 2016, Tanzania enacted the Access to Information Act. The Act according to section 4 gives effect to the citizens' right of ATI, provides for proactive disclosure and generally provides for a framework facilitating the right to information including access, disclosure and protection of persons who release information in public interest.

Accordingly, the two countries ought to promote, protect and respect FOE and ATI. Moreover, they are party to most of the International and regional human rights instruments that promote FOE and ATI. The obligations and safe guards should exist even amidst emergency situations such as in, and during the COVID-19 pandemic.

Role of Communications Sector

The communications sector in the two countries is mainly characterised by four players including, the regulator, the telecommunication companies (telecos), internet service providers (ISPs) and the consumers or users. It should be noted that the telecommunications sector plays an important role in facilitating FOE and ATI. The Uganda Communications Commission (UCC) is established by the Uganda Communications Act, 2013 as amended 2017. The functions of the UCC according to section 3 and 4 include setting standards, licensing, regulating and determining fees chargeable of the communications sector.

The Tanzania Communications Regulatory Authority (TCRA) is established by section 4 of the Tanzania Communications Regulatory Authority Act, 2003. The functions of TCRA under section 6 extend to licensing, establishing standards,

¹⁶ Research.un.org, "Calling of an International Conference on Freedom of Information," available at [https://undocs.org/pdf?symbol=en/A/RES/59\(I\)](https://undocs.org/pdf?symbol=en/A/RES/59(I)) (accessed 1 June 2020).

determining chargeable fees and monitoring and regulating the communications sector. It should be noted that Tanzania in 2018, adopted the Tanzania Electronic and Postal Communications (Online Content) Regulations (EPOCA) to give effect section 103(1) of the Electronic and Postal Communications Act, Cap. 306. The Electronic and Postal Communications Act which charges the TCRA under section 4 to licence and regulate electronic communication systems.

During the COVID-19 era, FOE and ATI were fundamentally affected. For instance, in Uganda, telcos and ISPs such as MTN and Airtel devised and adopted measures to aid COVID-19 prevention including the reduction or total waiver of mobile money sending charges.¹⁷ Further, telcos partnerships such between MTN Uganda and Vodacom Tanzania to reduce charges on mobile money transactions to 5% from (10-15)% eased communication across borders.¹⁸ There were also promotional internet bundles for individuals to work from home so as to stay away from grouping that would aggravate the spread of COVID-19.¹⁹ Moreover, the regulator widely supported information sharing on COVID-19 as a means to public access to health information. With these measures, people were able to easily express themselves, receive, share and disseminate ideas and information. Nevertheless, the over the top tax (OTT) payment in order to access social media services which was introduced in Uganda in 2018 continued, and thereby limiting FOE and ATI online. Payment of OTT of UGX 200 (US\$ 0.05) per day meant an extra cost which was not affordable to many.²⁰ The consequent result was the curtailment of FOE and ATI.²¹ Moreover, government consistently relied on the subject to tax media platforms such as Twitter to engage the public and disseminate COVID-19 related information.

Tanzania on the other hand has been marked negative developments. For instance, the EPOCA and Cyber-crimes Act have been widely used to clamp down on information dissemination and sharing on COVID-19.²² The heavy fines which come with the enforcement of the EPOCA have made matters worse. For instance, sections

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- 17 Humfrey Mpairwe, "No MOMO Charges, New Data Bundles: Inside MTN's Plan On Corona Virus," *Techpoint Magazine*, 19 March 2020, available at <https://techpointmag.com/the-mtn-plan-on-corona-virus/> (accessed 2 June 2020); Joe Jinja, "Corona Virus: Airtel Money Sending Fees Slashed For The Next 30 Days," *Techpoint Magazine*, 19 March 2020, available at <https://techpointmag.com/airtel-money-fees-slashed-for-30days/> (accessed 2 June 2020).
- 18 Humfrey Mpairwe, "MTN Uganda Partners with Vodacom Tanzania to Ease Mobile Money Transfer," *Techpoint Magazine*, 25 February 2020, available at <https://techpointmag.com/mtn-partnership-with-vodacom/> (accessed 2 June 2020).
- 19 Humfrey Mpairwe, "MTN Uganda Introduces New WORK From Home Internet Bundles," *Techpoint Magazine*, 19 March 19, 2020, available at <https://techpointmag.com/mtn-work-from-home-internet-bundles/> (accessed 2 June 2, 2020); see also, Branic, "Africell's New Data Bundles in response to Corona Virus to help those working from home," 21 March 2020 available at <https://www.branicsblog.com/africells-new-data-bundles-in-response-to-corona-virus-to-help-those-working-from-home/> (accessed 2 June 2020).
- 20 Alliance for Affordable Internet, "Uganda: New social media tax will push basic connectivity further out of reach for millions," CIPESA, 7 June 2018, available at <https://cipesa.org/2018/06/uganda-new-social-media-tax-will-push-basic-connectivity-further-out-of-reach-for-millions/> (accessed 5 June 2020).
- 21 Juliet Nanfuka, "Social Media Tax Cuts Ugandan Internet Users by Five Million, Penetration Down From 47% to 35%," CIPESA, 31 January 2019, available at <https://cipesa.org/2019/01/%EF%BB%BFsocial-media-tax-cuts-ugandan-internet-users-by-five-million-penetration-down-from-47-to-35/> (accessed 5 June 2020).
- 22 URN, "Tanzania gets tough on media over COVID-19 coverage," *The Observer*, 26 April 2020, available at <https://observer.ug/news/headlines/64491-tanzania-gets-tough-on-media-over-covid-19-coverage> (accessed 2 June 2020); see also, Amnesty International, "Tanzania: Authorities must end crackdown on journalists reporting on COVID-19," April 21, 2020, available at <https://www.amnesty.org/en/latest/news/2020/04/tanzania-authorities-must-end-crackdown-on-journalists-reporting-on-covid19/> (accessed 2 June 2020).

103 and 118 of the Electronic and Postal Communications Act and the EPOCA such as regulation 5, 6, render telecos and ISPs liable for content transmitted through their networks. For instance, *Mwananchi Newspaper* was banned on 16 April 2020 by the TCRA for publishing information that was allegedly false when they portrayed the president as buying fish in a market in disregard of COVID-19 social distancing measures.²³

It can be concluded that the media in Tanzania was forced into a regressive role on promoting FOE and ATI amidst the surging COVID-19 Pandemic. People were no allowed to freely express themselves and neither would they freely share and disseminate information and ideas on COVID-19 in fear of persecution through arrests, detentions, suspensions of licences of intermediaries and telecom telecos. There is a possibility the shrinking space of FOE and ATI could be carried forward to after the end of COVID-19. It is therefore imperative that government heeds to recommendations by key stakeholders and adopts an environment that facilitated FOE and ATI.

Closure of Academic and Education Institutions

Education is essential for acquiring and replication of knowledge of everything around the individual. It is also essential for sharing and seeking ideas and information.²⁴ Notably, education transforms human lives by contributing to making the world a better place to live in.²⁵ Despite the importance of education in knowledge and information and building confidence for free expression, the two countries during COVID-19 closed Institutions. For instance, Uganda closed all education institutions on 20 March 2020 for indeterminate period.²⁶ Tanzania also closed education institutions on 17 March 2020.²⁷ Tanzania has however shown signs of early opening of the affected institutions for resumption of education services.²⁸ Closure was part of the global efforts to contain COVID-19.²⁹ This, however, as aforementioned affected FOE and ATI by limiting knowledge acquisition and exchange, receiving, sharing and disseminating ideas and information. Moreover, a wide section of the affected students during the period did not get while others missed out on relevant information to empower them demand for accountability from leaders of government and institutions. Notably, even where

23 Committee to Protect Journalists, "Tanzanian newspaper banned from publishing online for 6 months over COVID-19 report," 11 May 2020, available at <https://cpj.org/2020/05/tanzanian-newspaper-banned-from-publishing-online/> (accessed 2 June 2020).

24 Bhardwaj, Ajay, "Importance of Education in Human life: A Holistic Approach." *International Journal of Science and Consciousness* 2, no. 2 (2016): 23-28.

25 *Ibid.*

26 Daily Monitor, "Museveni Closes Schools, Suspends Church Congregations," 18 March 2020, available at <https://www.newvision.co.ug/news/1516721/museveni-closes-schools-suspends-church-congregations> (accessed 3 June 2020); see also, Yudaya Nangonzi, "Govt closes school, universities over coronavirus," *The Observer*, available at <https://observer.ug/education/63945-govt-closes-school-universities-over-coronavirus> (accessed 3 June 2020).

27 Xinhua, "Tanzania Bans Public Gatherings, Shuts Down Schools Over COVID-19 Pandemic," 17 March 2020, available at http://www.xinhuanet.com/english/2020-03/17/c_138888678.htm (accessed 3 June 2020).

28 Reuben Kyama, "Tanzania Prepares to Reopen Universities," *University World News-Africa Edition*, 26 May 2020 available at <https://www.universityworldnews.com/post.php?story=20200525154337824> (accessed 3 June 2020).

29 UNESCO, "COVID-19 Educational Disruption and Response," available at <https://en.unesco.org/covid19/educationresponse> (accessed 3 June 2020); See also details of; COVID-19 Impact on Education, available at https://en.unesco.org/sites/default/files/covid_impact_education.csv (accessed 3 June 2020).

there were efforts and attempts to continue leaning through online platforms, they were frustrated by government directives.³⁰

The Music Industry

Music is an important medium for FOE and passing on information to individuals. In some jurisdiction like South Africa, the music movement was critical for confronting Apartheid by way of expression and raising awareness.³¹ Music today continues to be important in promoting FOE and ATI. During COVID-19, music continued to promote FOE and ATI. In Uganda, songs with themes to educate citizens on the prevention of the COVID-19 Pandemic were composed, aired and played on various media platforms including television, radios, YouTube among others.³² Relatedly, songs are effective in raising awareness amongst citizens as in the case of the HIV/AIDS pandemic that has led to loss of millions of lives over the decades.³³ Similar measures have been undertaken in Tanzania.³⁴

False News and Disinformation

In the wake of COVID-19, information sharing on various media platforms including social media such as Facebook, Twitter and WhatsApp, YouTube and print media among others took centre stage. It should be noted that social media, print, audio and audio-visual media play a critical role in promoting FOE and ATI. Indeed, in absence of such media, individuals can be deemed to be in the 'darkness of information.' Despite this major role, it was at times to verify authenticity of circulating information on COVID-19 on the various platforms. As a result, the two countries came up with measures aimed at curbing fake or false news and disinformation.

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- 30 Edrine Wanyama, "The Impact of COVID-19 On Digital Rights and Freedoms in Uganda," Law Africa, available at <https://www.lawafrica.com/wp-content/uploads/2020/05/The-Impact-of-Covid-19-on-Digital-Rights-and-Freedoms-in-Uganda.pdf> (accessed 30 May 2020); see also, Joseph Kizza, "Let's Standardize Protection of Health Workers – Museveni," New Vision 8 April 2020, available at https://www.newvision.co.ug/new_vision/news/1517722/-live-museveni-addresses-nation-coronavirus (accessed 3 June 2020).
- 31 Schumann, Anne. *The Beat that Beat Apartheid: The Role of Music in the Resistance Against Apartheid in South Africa*. Na, 2008; see also, Thato Mahlangu, "How Musicians Helped Sing South Africa to Freedom from Apartheid," *Global Citizen*, 15 November 2018, available at <https://www.globalcitizen.org/en/content/musicians-south-africa-apartheid-nelson-mandela/> (accessed 4 June 2020); and Baines, Gary, Ingrid Byerly, Christopher Cockburn, and David Coplan. *Composing Apartheid: Music for and against Apartheid* (New York University Press, 2008).
- 32 Dominic D.B. Makwa, "Uganda's Musicians are Fighting COVID-19 - Why Government Should Work with Them," *The Conversation*, 7 May 2020, available at <https://theconversation.com/ugandas-musicians-are-fighting-covid-19-why-government-should-work-with-them-136960> (accessed 4 June 2020); see also, Denis Nsubuga, "How Music is Shaping War on Coronavirus," *New Vision*, 7 April 2020, available at <https://www.newvision.co.ug/news/1517623/music-shaping-war-coronavirus> (accessed 4 June 2020).
- 33 *Ibid.*
- 34 Wanted in Africa, "Tanzania Artists use Music to Share Awareness on COVID-19," 15 April 2020, available at <https://www.wantedinafrica.com/whatson/tanzania-artists-use-music-to-share-awareness-on-covid-19.html> (accessed 4 June 2020); see also, Lucy Llado, "Listen to Singeli COVID-19 Song from Tanzania," *Music in Africa*, 29 April 2020, available at <https://www.musicinafrica.net/magazine/listen-singeli-covid-19-song-tanzania> (accessed 4 June 2020); and, GlobalVoices, "Musicians in East Africa Rush to Produce 'Corona' Songs — even as the Industry Falter," 27 March 2020, available at <https://globalvoices.org/2020/03/27/musicians-rush-to-produce-with-corona-songs-even-as-industry-falters-in-east-africa/> (accessed 4 June 2020).

In Uganda, there were arrests of some individuals over allegations of spreading fake news despite the declaration of section 55 of the Penal Code Act³⁵ which made the publication of false news criminal in *Onyango & Anor v Attorney General*.³⁶ It should be noted that as a result of this court ruling, there is a shift to employ section 171 of the Penal Code Act which prohibits wilful unlawful or negligent acts that could spread the infection of any disease dangerous to life. The laws employed during COVID-19 were diverse. They include section 25 of the Computer Misuse Act, 2011 which criminalises wilfully and repeated use of electronic communication to disturb or attempts to disturb the peace, quiet or right of privacy of any person with no purpose of legitimate aim; and section 10 which compulsorily requires service providers to disclose data transmitted through their networks. Further, section 5(1) (a), (b), (k), (x) and (z) of the Uganda Communications Act empowers the UCC to *inter alia*, licence, regulate standards for the communications sector. Similarly, section 31 which is elaborated by the fourth schedule to the Act prohibits broadcasting of distorted facts. Furthermore, the Press and Journalists Act³⁷ under section 3(b) prohibits the publication of false news. Further, the Professional code of ethics for journalists and editors made under sections 40(3) and 42 of the Press and Journalist Act under paragraph 2 prohibits the publication of false, inaccurate or misleading information.

Using the above laws and the respective provisions, the UCC issued a statement warning those who spread fake information and potential offenders who could stand trial under the aforementioned laws.³⁸ In other developments, some individuals including a pastor were arrested over spreading fake news on COVID-19.³⁹

In Tanzania, the main laws used against individuals to curb false news are equally diverse, and have been criticized for curtailing FOE and ATI. These include the Cyber Crimes Act⁴⁰ which under section 16 prohibits wilful publication of information or data using a computer system with the aim of deceiving or misleading the public and makes intermediaries liable. Further, the Electronic and Postal Communications Act⁴¹ together with the Electronic and Postal Communications (Online Content) Regulations⁴² which prohibit content providers from providing indecent, obscene, false, menacing or otherwise offensive. The specific provisions on the prohibition are sections 104 and 118(a) with hefty fines in cases of breach. Further, regulation 5 and 12 (j) (ii) of the EPOCA render the service providers for content transmitted

35 Chapter 120, available at https://ulii.org/system/files/legislation/consolidated-act/120/consolidated_act_2000_120.doc

36 Supreme Court Constitutional Appeal No. 2 of 2002, available at <https://ulii.org/system/files/judgment/supreme-court/2004/1/supreme-court-2004-1.rtf>

37 Chapter 105, available at <https://www.parliament.go.ug/cmis/browser?id=f6852c88-0d0a-4b7b-ad9c-c9c4579f786f%3B1.0>

38 Uganda Communications Commission Blog, "Public Advisory Notice on Circulation of Fake Information," available at <https://uccinfo.blog/2020/03/22/public-advisory-notice-on-circulation-of-fake-information/> (accessed 5 June 2020).

39 Conrad Ahabwe, "COVID-19 CRISIS: KCCA Staff Arrested Over Spreading Fake News on Coronavirus," *PML Daily*, 14 April 2020, available at <https://www.pmldaily.com/news/2020/04/covid-19-crisis-kcca-staff-arrested-over-spreading-fake-news-on-coronavirus.html> (accessed 5 June 2020); see also, URN, "Pastor Yiga Arrested for Misleading Public on COVID-19," *Daily Monitor*, 28 March 2020, available at <https://www.monitor.co.ug/News/National/Pastor-Yiga-arrested-misleading-public-COVID19/688334-5507644-1380ounz/index.html> (accessed 5 June 2020).

40 Act No. 14 of 2015, available at https://www.tcra.go.tz/en_documents/23.

41 Act No. 3 of 2010, available at https://www.tcra.go.tz/en_documents/17.

42 Statutory Instrument No. 133 of 2018, available at https://www.tcra.go.tz/en_documents/59

through their networks which may attract cancellation of licences under regulation 15 of the EPOCA. Similarly, the Media Services Act⁴³ under section 50 (1) (d), (2) and 54 prohibit the publication of false news. Moreover, an employer may be held vicariously liable for an offence of false news by the employee under sections 55 and 56 of the Media Services Act. The fines and imprisonment that come with the offence are equally harsh. Using the foregoing laws, the COVID-19 pandemic era has seen a clamp down media houses. For example, Mwananchi newspaper was banned in April 2020 for 6 months by TCRA for alleged breach of the EPOCA and the Cyber Crimes Act.⁴⁴ The allegation was that it had published false news stating that President John Magufuli was insensitive to COVID-19 preventive measures when he stood next to fish vendor in the market.⁴⁵

It should be noted the aforementioned measures have a historical effect of negatively impacting FOE with a chilling effect and limiting the flow of information amongst the citizenry. Accordingly measures aimed at preventing COVID-19 by penalising fake news have widely inhibited FOE and information flow to the detriment of the citizenry in the two countries.

Crack Down on Journalists

The journalist profession operates on a 24 hours basis in search for news and stories. News and stories later translate into reporting which promotes both FOE and Information flow. The prevalence of COVID-19 pandemic came with a number of preventive measures that affected the journalism profession. As earlier noted, limitations to movement expressed in terms of bans on public and private transport, compulsory quarantines and imposition of curfews. These were very common in Uganda. In Tanzania, the situation was different with a more relaxed approach to COVID-19.⁴⁶ With the exception of suspension of Mwananchi newspaper in Tanzania,⁴⁷ Ugandan journalists had an unforgettable experience as a result of the measures. Their space within which the journalism profession is exercised shrank with restrictions on movement. The restrictions made the exercise of their profession difficult leading them to crossfire with the law. For instance, journalists were assaulted, beaten and battered by security forces as they imposed curfew directives.⁴⁸ Moreover, with the looming losses in the COVID-19 era and its preventive measures many of them lost salaries and jobs.⁴⁹

43 Act No. 12 of 2016, available at <http://acme-ug.org/wp-content/uploads/1481107152-MEDIA-SERVICE-ACT-20161.pdf>

44 Committee to Protect Journalists, *supra*, note 21.

45 *Ibid.*

46 Samira Sawlani, "Lockdowns, Curfews and Prayer: Exploring East African Countries' COVID19 Response," *Observer Research Foundation*, 22 May 2020, available at <https://www.orfonline.org/expert-speak/lockdowns-curfews-and-prayer-exploring-east-african-countries-covid19-response-66557/> (accessed 5 June 2020).

47 Committee to Protect Journalists, *supra*, note 21.

48 Committee to Protect Journalists, "Ugandan Security Personnel Enforcing COVID-19 Measures Assault Journalists," 22 April 2020, available at <https://cpj.org/2020/04/ugandan-security-personnel-enforcing-covid-19-meas/> (accessed 5 June 2020); see also, Wilfred Arinda Nsheeka, "Journalist Severely Beaten by Security Forces During Curfew Hours," *Watch Dog*, 3 April 2020, available at <https://www.watchdoguganda.com/news/20200403/90148/journalist-severely-beaten-by-security-forces-during-curfew-hours.html> (accessed 5 June 2020).

49 Hamza Kyeyune, "Uganda: Pandemic Hits the Newspaper Industry Hard," *aa.com*, 20 May 2020, available at <https://www.aa.com.tr/en/africa/uganda-pandemic-hits-the-newspaper-industry-hard/1847132> (accessed 5 June 2020).

Restrictions on Movements

The COVID-19 preventive measures came with restrictions on movements of the citizens. Journalists on the one hand would not move to do their daily work. Moreover, motorcycles which are majorly used to source for information were banned.⁵⁰ Though private cars were allowed for a while, few journalists had private means. As a result, there was decline in sourcing of information that would flow to the public. Restrictions further led to salary cuts, uncertainty of jobs and loss of jobs.⁵¹ For instance, *New Vision* and *Daily Monitor* cut some employees' salaries by 40% and 35% respectively.⁵² Indeed, the COVID-19 situation has led to some pronouncements that it is killing the local print media in Uganda.⁵³ This means the noble journalism profession would not continue to operate normally.

On the other hand especially public offices including Ministries, Departments and Agencies (MDAs) were closed with only few considered essential MDAs allowed to operate. This meant physical access to MDAs was impossible. In a similar manner, digital access was also difficult given the bureaucratic nature of government offices which does not favour online execution of duties. Moreover, article 41 of the Uganda Constitution and the Uganda ATIA, 2005 under section 5 limit access to information in possession of the State and Its agencies. The situation created meant darkness and therefore no transparency and accountability contrary to section 3 of the Act. During the period, citizens were accordingly blind to key government decisions that affect them with no ready avenue for holding their leaders accountable.

Hence it can be observed that restriction on movements had both direct and indirect impact on FOE and ATI during the COVID-19. The environment within which the two rights are enjoyed shrunk to their detriment. FOE was curtailed ATI was limited.

Compulsory Programming Audio and Audio Visual Media

During the COVID-19 era, particularly in Uganda, radio and television stations were on the various occasions required to compulsorily air the president's address to the nation on COVID-19 prevention. Compulsory programming had to be done despite earlier criticism of consequences of alike measures.⁵⁴ While it was necessary to address the nation to ensure that COVID-19 does not spread, media had to shift from its regular programming. Consequently, for the over 13 addresses, there was interference

50 Nakisanze Segawa and Apophia Agiresaasi, "Defying Uganda's Ban, Motorcycle Taxis Remain Lifeline for Patients," *Global Press Journal*, 31 May 2020, available at <https://globalpressjournal.com/africa/uganda/defying-ugandas-ban-motorcycle-taxis-remain-lifeline-patients/> (accessed 5 June 2020).

51 Hamza Kyeyune, *supra*, note 49.

52 *Ibid.*

53 Clare Muhindo, "Covid-19 Sounds the Death Knell for Local Language Newspapers," *African Centre for Media Excellence*, 2 June 2020, available at <https://acme-ug.org/2020/06/02/covid-19-sounds-the-death-knell-for-local-language-newspapers/> (accessed 5 June 2020).

54 Mustafa B. Mugisha, "Free Airtime to Government Programs directive is unfortunate for Uganda's economy," 7 April 2014, available at <https://www.mustaphamugisa.com/free-airtime-to-government-programs-directive-is-unfortunate-for-ugandas-economy/> (accessed 11 June 2020).

with the scheduled programmes on media.⁵⁵ Moreover, some of the programmes that were changed were used to promote public interactions. Compulsory programming meant denial of platforms for public interaction and expression as well as sharing ideas and disseminating information. Accordingly, compulsory programming went to the root of interfering with article 29 on FOE and article 41 on ATI, both of the Uganda Constitution. Worse still, the media owners and proprietors had no option lest they conflicted with UCC and the different laws regulating the sector that would expose them to revocation of their licences by the UCC.⁵⁶ It should be noted that measure and its compliance led to loss of large sums of incomes to the affected media houses which in turn affected their daily operations.

Freedom of Assembly and Association

Freedom of Assembly and Association (FoAA) are equally protected and guaranteed by domestic, regional and international legislation in the two countries. It should however be noted that there are restrictions to the two freedoms for public health reasons including in the ICCPR (Articles 12, 18, 19, 21 and 22), ICESCR (article 4) and under General Comment No. 14 on the Right to the Highest Attainable Standard of Health (Article 12). In Africa, the ACHPR provides for the two rights in article 10 on the right to free association and Article 11 on the right to assemble freely with others. Nationally, FoAA in Uganda are enshrined in article 29 of the Uganda Constitution. In Tanzania, the two freedoms are enshrined in article 20. As such, individuals are entitled to freely assemble and associate with each other. It should be noted that FoAA are key means to expression and information sharing, impartation and dissemination. With the implementation of the restrictions on movement as noted earlier, there was limitation on expression both in individual and group capacities. Moreover, any gathering that were exceeding people were prohibited. Consequently, Uganda has been more affected than Tanzania in as far as measures pertaining to FoAA are concerned. For instance, while religious and other social gatherings were banned in Uganda for an indeterminable period,⁵⁷ they remained normal in Tanzania.⁵⁸ As a result of COVID-19, Ugandans had their freedoms limited in comparison to Tanzanians.

55 See for instance, East African Consortium for Clinical Research, "Covid-19 Updates: 13th Presidential Address," 4 May 2020, available at <https://www.eaccr.org/covid-19-updates-13th-presidential-address> (accessed 11 June 2020); UNHCR, "Uganda: UNHCR COVID-19 Response Bi-Monthly Update, 8 June 2020," *Relief Web*, 9 June 2020, available at <https://reliefweb.int/report/uganda/uganda-unhcr-covid-19-response-bi-monthly-update-8-june-2020> and <http://reporting.unhcr.org/sites/default/files/UNHCR%20Uganda%20COVID-19%20Update%20-%202026MAY-8JUN20.pdf> (accessed 11 June 2020).

56 Parliament of the Republic of Uganda, "Office of the Leader of the Opposition—Alternative Policy Statement Information and National Guidance FY 2014/15," (Kampala, 2014): 14–15, available at <https://www.parliament.go.ug/cmis/browser?id=f478c98e-5e23-494b-9630-a42ba7a5be5f%3B1.0> (accessed 11 June 2020).

57 Samsom Ntale, "Uganda Bans Weddings and Religious Gatherings for a Month to Prevent Coronavirus Spread," *CNN*, 19 March 2020, available at <https://edition.cnn.com/2020/03/19/africa/uganda-bans-weddings-coronavirus-intl/index.html> (accessed 12 June 2020).

58 Nicholas Bariyo and Joe Parkinson, "Tanzania's Leader Urges People to Worship in Throngs Against Coronavirus," *The Wall Street Journal*, 8 April 2020 available at <https://www.wsj.com/articles/tanzania-leader-urges-people-to-worship-in-throngs-against-coronavirus-11586347200> (accessed 12 June 2020).

Individual Privacy and Data Protection

The National constitutions of the two countries, article 27 of the Uganda Constitution⁵⁹ and article 16 of the Tanzania Constitution⁶⁰ guarantee the right to privacy. It should be noted that Uganda in 2019 enacted the Data Protection and Privacy Act to protect the privacy of the individual. Data protection and privacy seeks to ensure that all biometric data relating to the individual is protected from unlawful collection, storage and processing as well as dissemination.⁶¹ Notably, dealing with personal data in an unauthorised has potential impacts on free expression of the affected individual. It may also affect sharing, disseminating and imparting ideas and information of the affected data subject. During the COVID-19 era, there was mass abuse of personal data of the individual through social media especially Facebook, twitter and WhatsApp. For instance, some individuals fell victim to images and video sharing as victims of COVID-19.⁶²

Further, there were measures especially in Uganda including contact identification, contact listing and follow-ups to trace those suspected to be carrying COVID-19.⁶³ To this end, an application was developed to ease contact tracing. The application function by using Global Positioning System (GPS) and Bluetooth to share data. It is supported by the integrated COVID-19 Exposure Notification application in google preferences and services. While the use of the application is optional and based on national health authorities' applications, it has the potential to infringe on individual privacy with a resulting chilling effect on FOE.

Moreover, the use of GPS without effective protective framework has been declared an infringement of individual privacy in a recent decision in *Kenya in Nubian Rights Forum and 2 others v the Attorney General and 6 others*.⁶⁴ Moreover, there is no guarantee that contact tracing would be conducted in a transparent manner. The direct consequence of the contact tracing is a chilling effect on FOE and ATI especially by imposing fear on the suspected and exposed individuals to speak out or express themselves.

The Future of 2021 General Elections

As noted earlier, COVID-19 has ravaged the world and led to among others, curfews, compulsory quarantines and bans on assemblies and other public gatherings. With the

59 Article 27(2) provides that: No person shall be subjected to interference with the privacy of that person's home, correspondence, communication or other property.

60 Article 16(1) 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.

61 Biometric data according to section 2 of the Data Protection and Privacy Act of Uganda means personal data which means information about a person from which the person can be identified, that is recorded in any form and includes data that relates to- (a) the nationality, age or marital status of the person; (b) the educational level, or occupation of the person; (c) an identification number, symbol or other particulars assigned to a person; (d) identity data; or (e) other information which is in the possession of, or is likely to come into the possession of the data controller and includes an expression of opinion about the individual.

62 Available at <https://twitter.com/sadabkitatta79/status/1243183979370438661>; Available at <https://twitter.com/Uganda4Ugandans>.

63 Kelvin Atuhaire, "Ugandans Develop App for COVID-19 Contact Tracing," *Daily Monitor*, 23 May 2020, available at <https://www.monitor.co.ug/News/National/Ugandans-develop-app-Covid-19-contact-tracing/688334-5561646-fy2hbn/index.html> (accessed 16 June 2020)

64 Consolidated Petitions No. 56, 58 & 59 of 2019, available at <http://kenyalaw.org/caselaw/cases/view/172447/>

continuity of like measures in Uganda, Uganda's political landscape is getting shaped by COVID. In his 22 June 2020 speech the President on the COVID-19 pandemic while commenting on the 2021 general elections, he, *inter alia*, stated:

With the politics, the Independent Electoral Commission, in consultation with the scientists, apparently, looked at three options, as far as the General and Local Government Elections that are due for early next year, are concerned. The three questions to be answered were:

1. If there is no vaccine or clear treatment for this virus by the time of the elections, can the Conventional Elections of mass rallies, processions, etc., be safely held?
2. Can and should the elections be postponed?
3. Is there a hi-breed that can be constitutionally used to hold the elections on time, but safely?

They opted for number three (3) because the danger is in the holding of public gatherings. If you eliminate those and messages of the contestants are passed on through the radios, TVs, socio-media, etc., the gathering for the elections themselves, can be safely managed with hand-washing, social distancing (*okweeha emyaanya* - leaving gaps of the necessary metres between voters in line - a type of *tonseemberera, otampika*). This would remove the uncertainty that would be created by the postponement of the elections but also ensure that elections are held safely. I call upon Ugandans to support this option because it can work if all concerned do their assignment diligently.⁶⁵

Given the above assertion in support of a hi-breed election, there are clear pointers that large gatherings including campaign rallies will be barred. Notably, such measures directly restrict individuals' capacity to assemble, associate and express themselves. Moreover, it will be a continuity of a clamp down on FOE and ATI related rights that was first evidence in 24 February 2006 when the Daily Monitor Newspaper and its sister KFM radio were blocked over publishing early results from polling stations.⁶⁶ Further, in 2011, there was social media blockage.⁶⁷ Further still, SMS censorship was implemented during the general elections in February 2011.⁶⁸ The climax of the

65 Address by H.E. Yoweri Kaguta Museveni President of the Republic of Uganda to the Nation: Updates on Matters Regarding Corona Virus (COVID-19) and the Lockdown Relaxation—22 June 2020, available at <http://statehouse.go.ug/sites/default/files/attachments/speeches/address-corona-virus-22-june-2020-converted.pdf> (accessed 25 June 2020).

66 Committee to Protect Journalists, "Attacks on the Press in 2006 - Uganda," February 2007, available at: <https://www.refworld.org/docid/47c5674727.html> (accessed 27 June 2020)

67 African Centre for Media Excellence, "In Face of Unrest, Uganda Seeks to Block Social Media Websites" 19 April 2011, available at <https://acme-ug.org/2011/04/19/in-face-of-unrest-uganda-seeks-to-block-social-media-websites/> (accessed 27 June 2020).

68 Elias Biryaberema, "Uganda bans SMS texting of key words during poll," *Reuters*, 17 February 2011, available at <https://www.reuters.com/article/ozatp-uganda-election-telecoms-idAFJ0E71G0M520110217> (accessed 27 June 2020).

deplorable state was witnessed in 2016 when social media and mobile were switched off during the elections⁶⁹ and at the president's inauguration.⁷⁰

To the contrary, Tanzania's general elections are in plan and high gear preparation despite the COVID-19 situation.⁷¹ Nevertheless, the possibility of potential restriction of large group gatherings and political rallies is not far from suspect unless the situation normalises.

Conclusion

There has been a clear clash between the containment and prevention of COVID-19 and Freedom of expression and access to information. The measures adopted by the two countries especially by Uganda have immensely narrowed the civic space within which FOE and ATI are enjoyed. Tanzania did not take very serious control and preventive measures but still had its FOE and ATI related rights affected by COVID-19. As such, the COVID-19 pandemic presents uncertainties as to the future of the enjoyment FOE and ATI as well as the various related rights. Moreover, it is not clear how the enjoyment of the aforementioned rights and freedoms will be restored after the COVID-19 pandemic is successful prevented or contained.

Recommendations

While it was necessary to adopt measures that seek to contain and prevent the spread of COVID-19 pandemic, some of the measures though considered over-arching had negative impact on FOE and ATI rights and freedoms. It is therefore imperative that actions are taken to ensure that aspects which negatively affect the aforementioned rights do not exist even beyond the COVID-19 era. Specifically, the following suggestions could work to ensure that two countries fully restore an environment and civic space that favours FOE and ATI.

All measures taken to restrict FOE and ATI in all frontiers including in the music industry, legislating against false news and disinformation, movements and freedom of Freedom of assembly and association should be in compliance with the international and regional human rights instruments and State obligations. Moreover, where they are justified, they should always be specific, time bound, legitimate and proportionate. This plays a fundamental role in ensuring that restrictions are not abused by the political authorities.

The communications sector plays an important role in disseminating information on emerging issues pertaining the life and day to day health living of the individuals. The two States should therefore guarantee independence of the communications sector

69 Fredric Musisi, "Social Media, Mobile Money Switched off Over National Security Concerns," *Daily Monitor*, 18 February 2016, available at <https://www.monitor.co.ug/News/National/Social-media-Mobile-Money-switched-off-over/688334-3082556-fnl4xjz/index.html> (accessed 27 June 2020).

70 Fredric Musisi, "Government Shuts down Social Media Again," *Daily Monitor*, 13 May 2016, available at <https://www.monitor.co.ug/News/National/Government-shuts-down-social-media-again/688334-3201024-qxvhrxz/index.html> (accessed 27 June 2020).

71 Nyawira Mwangi, "Tanzania to Hold General Elections as Planned Despite COVID-19 Outbreak: President," CGTN, 27 March 2020, available at <https://africa.cgtn.com/2020/03/27/tanzania-to-hold-general-elections-as-planned-despite-covid-19-outbreak-president/> (accessed 27 June 2020); see also, Africa Press, "CCM Preps for General Elections in Top Gear," 12 June 2020, available at <https://www.africa-press.com/tanzania/parties/ccm-preps-for-general-elections-in-top-gear> (accessed 27 June 2020).

to enable them freely disseminate important information to the public. Moreover, forced programming as was the case in Uganda during COVID-19 undermines the continuity of independent programming by the media houses, going to the root of their financial backbone including advertising. Where restrictions are eminent, they should not aim to cripple or completely block the work of the sector as this would deny individuals critical information and the space to express themselves.

Closure of academic and education institutions effectively functions against the rapid spread of pandemics such as COVID-19. However, States need to plan for rapid response mechanisms where similar disease outbreaks may occur. For instance, there should be deliberate governments towards adopting and enhancing e-learning by investing on the sector and providing a favourable environment of the related private sector such as the telecommunications sector. This would ensure that while physical meetings are impossible, education and learning continue electronically. Consequently the halt of education as happened in the two countries will become history and may never recur.

De-legislate all laws, directives, regulations, rules policies and guidelines that limit access to the internet. The internet plays a critical role in FOE and ATI as well as in access to knowledge and learning. Hence all laws such as the Excise Duty Act as amended in Uganda that introduced the Over the top taxes before access to social media and the laws that give the Uganda Communications Commission veto powers to shut, close or block the internet should be repealed. Similarly, Laws that grant the Tanzania Communications Regulatory Authority excessive powers to determine the nature and scope of enjoyment of media freedoms including FOE and ATI in Tanzania should be repealed.

Individual privacy and data protection are key to individual autonomy in all spheres of life. Similarly, they give the individual confidence to express themselves without fear of being tracked down and facilitate free sharing and dissemination of information. The COVID-19 situation however so the introduction of surveillance tools such as those that enable and enhance contact tracing. Such tools should be immediately dismantled at once COVID-19 is contained. This will ensure the unfettered enjoyment of FOE and ATI in the aftermath of the pandemic. Moreover, it would be one of the data protection principles of collection, storage and processing for a specific purpose.

Immediately restore a favourable environment for the enjoyment of all rights and freedoms including FOE and ATI and internet freedoms upon the containment of COVID-19. This will offer safeguards against the use of highly restrictive measures adopted during the prevalence of COVID-19 by politicians to curtail the enjoyment of fundamental human rights and basic freedoms.

Elections offer a platform for FOE and ATI on the electorates. Despite the practical challenges brought by the COVID-19 pandemic, the two States should aim to minimise the suppression of the right to adult suffrage. There should be a fair ground for the electorates to interact with the candidates who seek to represent them. Moreover, facilities such as the media and the internet that could make this possible should be available at an affordable cost and on equal grounds.

The international community should continually guide the affected States including Uganda and Tanzania on the necessary precautions to undertake to ensure that FOE and ATI are not negatively affected.⁷² This can be done through constant reminders of States of their international duties and obligations through among others, reporting on the state of FOE and ATI.

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⁷² See for instance, CIPESA, “Restrictions to Freedom of Assembly and Association in Africa in the wake of COVID-19: Submission to the UN Special Rapporteur on Freedom of Assembly and Association by the Collaboration on International ICT Policy for East and Southern Africa (CIPESA) April 2020,” available at https://cipesa.org/?wpfb_dl=330 (accessed 29 June 2020).