

**ATTITUDE TOWARDS ELECTRONIC COMMERCE IN CONTRACT  
TRANSACTIONS IN TANZANIA LAW AND PRACTICE: A CASE STUDY  
OF DAR ES SALAAM CITY**

**GERALD SAGAMAGANGA MSOVELA**

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**2013**

**CERTIFICATION**

I, Ian Lloyd, the undersigned supervisor, do hereby certify that I have read and hereby recommend for examination by the Open University of Tanzania a dissertation titled **‘Attitude Towards Electronic Commerce in Contract Transactions in Tanzania Law and Practice: A Case Study of Dar es Salaam City’** in partial fulfillment of the requirements for the award of the degree of Master of Laws (LL.M.) degree of the Open University of Tanzania.

.....  
Prof. Ian Lloyd  
(Supervisor)

Date.....

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I, Gerald Sagamaganga Msovela, do hereby declare that this dissertation is my own original work and to the best of my knowledge it has not been submitted and it will not be submitted to any other University for a similar or any other degree award.

.....

Signature

.....

Date

**DEDICATION**

This dissertation is dedicated to my lovely wife Gloria Kavia Yona who despite her tight PHD studies at Nagasaki University in Japan, yet she has been of much helpful to me greatly. She has most of the time been wishing to know how far have I reached with my dissertation writing up. With such wonderful spirit it is thus why I have decided to dedicate to her this work.

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played a significant role in enabling the research be in the way it is, hence they deserve special gratitude as well.

## ABSTRACT

Recent developments in ICT have greatly impacted social, political, cultural and economic setting with particular reference to the emergence of electronic commerce. However, not all that glitters is gold. Such developments in ICT have been both a blessing and curse to human being. The developments of ICT have led to the emergence of cyber related threats like hacking, cyber tort, cyber crime and data manipulation. On the other hand, developments in ICT have led to the simplification of international trade and finance through e-contracts, e-payments, e-data transfer, digital signatures, e-banking, e-taxation and e-medicine. Upon the emergence of cyber related threats and augmented use of ICT in miscellaneous transactions there emerged a prompt and crucial measure to regulate e-commerce to curb the challenges. Despite such holistic efforts electronic commerce is not well regulated under Tanzania legal regime. It is, now, recommended that serious and prompt measures be taken to address the identified *lacunae*. The measures include: enacting statutes that will govern e-contracts, e-banking, electronic initial public offering, e-commerce, e-taxation, digital signatures as well as data protection and security. It is for this reason the dissertation is organized into four main chapters on e-commerce in Tanzania. Chapter one is about introduction on how the research was executed. Chapter two is about legal and practical applicability of e-commerce in Tanzania in the key sectors of the economy while chapter three compiles and analyzes field research findings as collected by the researcher from the field. Finally chapter four is on conclusions and recommendations on what should be done to avert the identified problems.



## TABLE OF CONTENTS

<b>CERTIFICATION .....</b>	<b>ii</b>
<b>COPYRIGHT .....</b>	<b>iii</b>
<b>DECLARATION.....</b>	<b>iv</b>
<b>DEDICATION.....</b>	<b>v</b>
<b>ACKNOWLEDGEMENT.....</b>	<b>vi</b>
<b>ABSTRACT .....</b>	<b>viii</b>
<b>LIST OF CASES .....</b>	<b>xii</b>
<b>LIST OF LEGISLATIONS.....</b>	<b>xiii</b>
<b>LIST OF TABLES .....</b>	<b>xv</b>
<b>LIST OF ABBREVIATIONS/ACRONYMNS.....</b>	<b>xvi</b>
<b>CHAPTER ONE .....</b>	<b>1</b>
<b>1.0 INTRODUCTION.....</b>	<b>1</b>
1.1. Background to the Problem.....	1
1.2 Statement of the Problem.....	2
1.3 Literature Review.....	7
1.4 Research Objectives .....	16
1.4.1 The general Objective .....	17
1.4.2 Specific Objectives .....	17
1.6 Significance of the Study .....	17
1.6 Scope and Limitations of the Study .....	19
1.7 Research Hypotheses .....	19
1.8 Research Methodology .....	19

1.8.1 Study Area .....	20
1.8.2 Sample Size.....	20
1.8.3 Methods of Data Collection and Research Tools.....	20
1.8.4 Data Analysis .....	20
1.8.5 Study Duration .....	20
<b>CHAPTER TWO .....</b>	<b>22</b>
<b>2.0 LEGAL FRAMEWORK AND PRACTICAL APPLICABILITY OF ELECTRONIC COMMERCE IN CONTRACT TRANSACTIONS IN TANZANIA .....</b>	<b>22</b>
2.1 Introduction.....	22
2.2 Situation Prior to the Enactment of EPOCA.....	22
2.3 Situation After Enactment of EPOCA .....	24
2.4 The Companies Act.....	27
2.5 The Law of Contract Act .....	27
2.6 The Banking and Financial Institutions Act .....	29
2.7 Electronic Taxation .....	31
2.7.1 Other Aspects of E-commerce in Contract Transactions.....	32
2.7.1 Mobile Money Transfer as an Aspect of E-Commerce in Tanzania.....	33
2.8 Conclusion .....	37
<b>CHAPTER THREE .....</b>	<b>38</b>
<b>3.0 FIELD RESEARCH FINDINGS AND ANALYSIS.....</b>	<b>38</b>
3.1 Introduction.....	38
3.2 Responses from the Respondents.....	38

3.2.1 Perception by the Respondents of E-commerce in Contract Transactions in general .....	38
3.2.3 Extent to which Laws of Tanzania Accommodate E-commerce in Contract transactions .....	42
3.2.4 Doubts of the Respondents as to the Application of E-commerce in Contract transactions .....	44
3.3 Conclusion .....	45
<b>CHAPTER FOUR.....</b>	<b>47</b>
<b>4.0 CONCLUSION AND RECOMMENDATIONS.....</b>	<b>47</b>
4.1 Introduction.....	47
4.2 General Conclusion.....	47
4.3 Recommendations .....	48
<b>REFERENCES.....</b>	<b>51</b>
<b>APPENDICES .....</b>	<b>55</b>

**LIST OF CASES**

*Adams vs. Lindsell, (1818) 1B& Ald. 618).*

*Household Fire Insurance vs. Grant, (1879 L. R. 4EX. DN. 26).*

## LIST OF LEGISLATIONS

The Constitution of the United Republic of Tanzania, 1977 (Cap. 2 R. E. 2002).

The Law of Contract Act, (Cap. 345 R. E. 2002).

Sale of Goods Act, (Cap. 214 R. E. 2002).

The Bank of Tanzania Act, Act No. 4 of 2006.

Banking and Financial Institutions Act, Act No. 5 of 2006.

Income Tax Act, (Cap. 332 R. E. 2002).

Value Added Tax (Cap. 148 R. E. 2002).

Capital Markets and Securities Act (Cap. 79 R. E. 2002).

The Companies Act, 2002 (Cap. 212 R. E. 2002).

Executive Agencies Act, Act No. 30 of 1997.

Arbitration Act (Cap. 15 of 2002).

Broadcasting Receiving Apparatus (Licensing) Act, Act No. 6 of 1994.

Tanganyika Broadcasting Corporation (Dissolution) Act, Act No. 11 of 1995.

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Tanzania Posts Corporation Act, Act No. 19 of 1993.

Tanzania Telecommunications Company Incorporation Act, Act No. 20 1993.

The Broadcasting Services Act, Act No. 6 of 1993.

The Tanzania Communications Act, Act No. 18 of 1993.

Fair Competition Act, 2007.

Electronic and Postal Communications Act, No. 3 of 2010.

Tanzania Telecommunications Regulatory Authority Act, Act No. 12 of 2003.

Business Names Registration Act, (Cap. 213 R. E. 2002).

Bills of Exchange Act (Cap. 215 R. E. 2002).

Foreign Exchange Act, Act No. 1 of 1992.

**LIST OF TABLES**

Table 3.1: Rate of Adoption and Application of E-commerce in Contract  
Transactions .....41

Table 3.2: Responses and Concerns Aired By the Respondents.....43

## LIST OF ABBREVIATIONS AND ACRONYMS

CCTV	Closed Circuit Television
EFT	Electronic Funds Transfer
EPOCA	Electronic and Postal Communications Act, 2010
H. E.	His Excellency
<i>Ibid</i>	<i>ibidem</i> ( means as stated above)
ICT	Information and Communication Technology
IDC	International Data Corporation
IPO	Initial Public Offering
IT	Information Technology
INCOTERMS	International Commercial Terms
LL.M.	<i>Legum Magister</i> (Master of Laws)
MBA	Master of Business Administration
MCST	Ministry of Communications, Science and Technolo (Tanzania)
PAYE	Pay As You Earn
P	Page
PP	pages
UDSM	University of Dar-es-Salaam
VAT	Value Added Tax
www	World Wide Web
R E	Revised Edition (of the Laws of Tanzania)
SMEs	Small and Medium Enterprises



SWIFT	Society for Worldwide Interbank Financial Telecommunications
TCRA	Tanzania Communications Regulatory Authority
TISS	Tanzania Interbank Settlement Systems

## CHAPTER ONE

### 1.0 INTRODUCTION

#### 1.1. Background to the Problem

Electronic commerce refers to the buying and selling of products or services over electronic systems such as the Internet and other computer networks.<sup>1</sup> An e-commerce obtain such technologies as Electronic Funds Transfer, supply chain management, Internet marketing, online transaction processing, electronic data exchange, inventory management systems and automated data collection systems.<sup>2</sup> In 2001, Internet users worldwide were 497.7 million, who generated US \$615.3 billion in revenue from e-commerce transactions.<sup>3</sup>

Globalization made the world as a small village and therefore companies and nations are getting tremendous financial benefits and raising their competitiveness in the global market through the Internet.<sup>4</sup> In Tanzania, e-commerce is now becoming an obligation to compete in the global business environment. Tanzania has put some efforts on establishments of Information and Communication Technologies (ICT) and improves market systems and devices. For instance the removal of all taxes and duties on computers, registered four mobile operators.<sup>5</sup> Despite the government's efforts and investments in telecommunications sector aiming at establishing e-commerce in Tanzania, still there is little numbers of e-commerce adaptors.

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<sup>1</sup> Mensah Et al (2005).

<sup>2</sup> *Ibid.*

<sup>3</sup> IDC 2002.

<sup>4</sup> Shiferaw, 2010.

<sup>5</sup> National Information and Communication Technologies Policy, 2003, (Tanzania).

This study will provide information on the attitude of Tanzanian people on e-commerce. These findings can act as the roadmap for the government, marketers and other relevant stakeholders to promote e-commerce.

## 1.2 Statement of the Problem

In the part that deals with the statement of the problem, the researcher undertakes to provide a precise definition of the problem to be investigated showing the important issues to be covered.<sup>6</sup> This part is supported by statistics and data from the most recent sourced of information including manifestation of the research topic from the credible media outlets.<sup>7</sup> It sounds well to commence this part by defining the key terms of the research topic in the following manner:

Electronic commerce is the type of industry where buying and selling of products and services is conducted over electronic systems as the Internet and other computer networks.<sup>8</sup> Electronic commerce draws technologies such as mobile commerce, Electronic Funds Transfer, supply chain management, Internet marketing, online transaction processing, electronic data exchange, inventory management systems, and automated data collection systems.<sup>9</sup> Modern electronic commerce typically uses the World Wide Web at least one point in the transactions life, although it may encompass a wide range of technologies such as the e-mail, mobile devices social

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<sup>6</sup> Majamba, H. I. (2009) *Fundamentals of Legal Research: A Law Student's companion*, [Draft: Issued for Restricted Circulation for Use by Students of the School of Law (Formerly Faculty of Law)] UDSM at p. 46.

<sup>7</sup> *Ibid.*

<sup>8</sup> Accessed from <http://www.wikipedia.org/wiki/E-commerce> visited on 22nd April 2013 .

<sup>9</sup> *Ibid.*

media, and telephones.<sup>10</sup> Electronic business is not only the sale aspect of e-business but also consists of the exchange of data to facilitate the financing and payment aspects of business transactions.<sup>11</sup>

As regards timeline, electronic commerce traces its historical origins in 1979 when Michael Aldrich invented online shopping.<sup>12</sup> In 1982 Minitel was introduced nationwide in France by France Telecom used for online ordering.<sup>13</sup> In 1983 California State Assembly holds first hearing on “electronic commerce “in Volcano, California.<sup>14</sup> Likewise in April, 1984, CompuServe launches the electronic mall in USA and Canada. It is the first comprehensive electronic commerce service.<sup>15</sup> On the very same year California becomes the first state to enact Electronic Commerce Act defining basic consumer rights online.<sup>16</sup>

Since then the development of E- commerce was like a burning bush, for example in the year 2012 alone global e- commerce was estimated to be worth US \$ 1 trillion, with an average of 21.1% increase from the previous year.<sup>17</sup> Internationally there is International Consumer Protection and Enforcement Network, which was formed in 1991 from the informal network of government customer fair trade organizations all of which sought to promote E-commerce.<sup>18</sup> The purpose was stated as being to find

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<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> Tracz, Ewaryst, Kapczynski, Adrian (2009) *Internet-Technical Development Applications*, Springer p. 255.

<sup>13</sup> *Op cit note 8.*

<sup>14</sup> *Op cit* at note 12.

<sup>15</sup> Aldrich Michael, “Finding Mrs. Snowball”.

<sup>16</sup> *Ibid.*

<sup>17</sup> Adopted from [http://www.wikipedia.org/wiki/electronic\\_commerce](http://www.wikipedia.org/wiki/electronic_commerce).

<sup>18</sup> *Ibid.*

ways of cooperating on tackling consumer problems connected with cross-border transactions in both goods and services, also to ensure exchange of information among participants for mutual benefit and understanding.<sup>19</sup>

Dar es Salaam is the largest city in Tanzania as well as the country's richest and regionally important centre, most important commercial hub with high concentrations of trade, other services and manufacturing compared to other parts of the country which has about 80% of its population in rural area.<sup>20</sup> Dar-es-Salaam is actually an administrative and governmental province within Tanzania and it contains three local government administrative districts namely *Kinondoni* to the north; *Ilala* at the City centre and *Temeke* to the south.<sup>21</sup> Following the August 2012 national population and settlements census had a population of about five million (5mil). According to statistics, by April 2013, there were six telecommunications companies, about seventy Internet service providers, and over twenty two million (22 milion) mobile network subscribers in Tanzania.<sup>22</sup>

As it has been pointed out earlier the wind of E-commerce started blowing across the world especially in the western world from early 1980. However since Tanzania is not an island the wind of switching on into E- commerce did not spare it hence through time electronic commerce was becoming an order of the day in Tanzania though gradually and at a slower pace. Though electronic commerce is gaining

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<sup>19</sup> *Ibid.*

<sup>20</sup> Adopted with substantial modifications from <http://www.wikipedia.org/wiki/dar-es-salaam> accessed on 25th April 2013.

<sup>21</sup> *Ibid.*

<sup>22</sup> <http://www.tcra.go.tz/publications/telecom/html>.

momentum in Tanzania there arose the need to have in place a solid legal and administrative institutional framework to regulate E-commerce and for the related matters to curb foul play among the actors in the novel sector. As a result there was established Tanzania Communications Commission which was succeeded by the Tanzania Communication Regulatory Authority (TCRA) as a regulatory body to the novel sector.<sup>23</sup> However, despite all these efforts by the government of the United Republic of Tanzania the Electronic sector was not adequately regulated hence much has to be done as reflected in the most recent media outlets as follows:

David Kisanga, The Guardian Correspondent reports that the government is planning to set a Board in a move to monitor and regulate cyber activities in the country.<sup>24</sup> He reports further that the Board will work closely with the Ministry of Communications, Science and Technology in seeing that the cyber activities are conducted by the qualified personnel. The Board aims at to nab and stop illegal cyber users who misuse the technology. This was said by Dr. Yohan Zaipuna when addressing participants in Banking IT and Security summit held in Dar-es-Salaam.<sup>25</sup>

He enumerated the cyber related threats in Tanzania to include hacking, malicious insiders, card skimming, electronic files manipulation, IT control circumvention, unauthorized penetration and careless employees have surged as a new IT infrastructure and banking systems intended for cost efficiency increase.<sup>26</sup>

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<sup>23</sup> Tanzania Telecommunications Regulatory Act, No. 12 of 2003 establishes “TCRA”.

<sup>24</sup> David Kisanga, The Guardian Correspondent (2013, April 25) “Government to set up a Board to supervise Cyber activity” at pp. 1,2.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

On the same event AbdulWakil Saiboko reports that the government is reviewing laws to cope with the growth of cyber crime and other computer related offences including e-fraud and violation of privacy.<sup>27</sup> This was said during the opening of the East African Banking and IT Security Summit 2013 held under the theme “Combating the Emerging threats in banking and payment transactions in East Africa”.<sup>28</sup>

In another development Anne Robi reports that Tanzania Revenue Authority (TRA) has recorded an increase in Value Added Tax (VAT) under the use of the Electronic Funds Transfer (EFTs) of 23 to 9.6 per cent VAT in 2010/2011 and 2011/2012 respectively.<sup>29</sup> This show that though e-commerce is still in its early stages of development much more need to be undertaken by scholars including conducting research like this instant one. This is founded on the fact that cross-cutting references from most recent media outlets have clearly highlighted threats associated with electronic commerce in Tanzania. This research is craved to look for solutions for the anticipated problems in the young sector.

The above cited sources disclose that development of electronic commerce in Tanzania particularly in Dar-es-Salaam is taking a new turn hence research becomes mandatory. Such developments leave the researcher with no iota of doubt that there is indeed a need to immediately conduct a research on “Attitude Towards Electronic

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<sup>27</sup> AbdulWakil Saiboko, Daily News (2013, April 25) “Comprehensive ICT Law in Pipeline” at pp. 1, 3.

<sup>28</sup> *Ibid.*

<sup>29</sup> Anne Robi, DailyNews (2013, April 25) “Electronic Devices Boost VAT Collection” at p. 3.

Commerce in Contract Transactions in Tanzania” in order to explain certain conduct or behavior or provide an avenue for seeking legal solutions to the cyber related threats facing Tanzania as enumerated earlier.

### **1.3 Literature Review**

This part provides the basis for validation of the research by providing a benchmark for comparing what has been covered on the theme proposed to be undertaken.<sup>30</sup> The main aim of undertaking research review is to identify different perspectives and ideas from texts, journals, documents and studies (the literature) on themes closely related to the theme that the researcher seeks to investigate.<sup>31</sup> It is a brief outline of what authorities have stated on the subject, discussion of their theoretical foundation, areas of where there is convergence and divergence between the work being reviewed and this research topic and the knowledge gap that this research intends to cover.<sup>32</sup> The literature reviewed includes the following:

Chissick Michael and Alstair Kalman<sup>33</sup> unanimously agree that electronic commerce has started spending habits and will change the way everyone one do business. The reasons for this as per the authors are many and varied; globalization and dismantling of trade barriers; development of smartcards; the Internet and the de facto emergence of English as the global language. Also this literature points out domain name (a string of numbers which web users use to identify each other on the

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<sup>30</sup> Op cit note 29.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> Chissick M. Et al (2002) Electronic Commerce: Law and Practice, 2<sup>nd</sup> Edition, London, Sweet and Maxwell.



Internet) as one of the requirements which is to be considered when establishing an electronic commerce. The authors do not spare online contracts of cyberspace which do not necessarily involve parties in their continuing relationship rather one-off transactions between the parties who have never met. The authors affirm that the parties are not barred from forming legally binding contracts by e-mail and the World Wide Web. The authors have extensively deliberated themselves on the issue of jurisdiction or forum due to the borderless nature of e-commerce as parties will need to know how to enforce their contracts against their foreign parties in the global economy.

Owing to the fact that disputes and indifferences are likely to occur in the e-commerce, the authors have written about the issue of security and real evidence which are of great importance in criminal investigation. The authors hold that fingerprints, DNA and bloodstains are all common types of real evidence which are used to convince the court of the guilt or innocence of the accused person in cyber crimes. This literature is very resourceful to this research as it covers the entirety of electronic commerce in a global perspective.

Mwakinyuke<sup>34</sup> states that in the recent years, organizations have found themselves in environments that are somehow more challenging and dynamic than ever before. Mwakinyuke states further that technology and practice have changed very rapidly as a result of the revolution in the ICTs. The researcher submits further that the cost

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<sup>34</sup> Mwakinyuke A. (2002) The Adoption of Electronic Commerce Technologies and its Impact on Business Processes in Tanzania: The Case of Tanzania, MBA Dissertation, UDSM.

of transaction processing for majority of business firms has been reduced by more than 25% due to the adoption of e-commerce technologies. It is also submitted that the adoption of e-commerce technologies is very new to some firms although the situation of the business is encouraging them to join as the globalization is at the doorsteps. While Mwakinyuke inclined himself in the field of Commerce/management the instant study is inclined in the field of law.

Dennis Mark<sup>35</sup> submits that commercial banks are incurring high costs, wasting a lot of time and accumulate many errors in processing the transactions manually; hence the adoption of e-commerce is imperative. E-commerce technology is one of the areas which are fast growing in the banking industry and some key customers do not want to do business with the banks which do not want to use e-commerce technology in offering their services. It is also established that e-commerce can assist customers in meeting their requirements by reducing costs, saving time, reducing errors and increasing production efficiency. The same author opines that customers are not aware of the commercial banks' e-commerce products and so the commercial banks in Tanzania need to educate their customers about e-commerce products offered by them.

Majuva Catherine<sup>36</sup> states that e-commerce is relatively new, and so far is little known about its benefits in Tanzania. She maintains further that e-commerce is also a potential to increase information base of an enterprise and greater access to any

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<sup>35</sup> Dennis Mark (2008) Analysis of the Awareness of Electronic Commerce Products Offered by the Commercial Banks in Tanzania: The Case of Tanzania, MBA Dissertation, UDSM.

<sup>36</sup> Majuva Catherine (2000) Development Dynamics and Future Prospects of Electronic Commerce for Developing Countries: A Case Study of Tanzania, MBA Dissertation, UDSM.

kind of information competitive advantage among enterprises. The author submits further that since time is the currency of the century, then electronic commerce will have to reduce the importance of time by speeding up production cycles, allowing companies to operate in a close coordination and cooperation to enable customers and business to conduct transactions around the clock: anytime, anywhere.

Mwita Joseph Nyamboha<sup>37</sup> holds that the aim behind designing up the electronic commerce facility is to make the research, view and order of products to be faster and efficient with minimum errors. It has various interfaces that enable the customer to buy online and the shop owner to maintain the system. To manage the customers' transactions the database is developed for storage of users' profiles and debit card information for registered users, and accepts the data of new customers. More importantly the author states that electronic facility system is one of the typical server systems, and includes essential tasks to be implemented in the typical web based three tier systems.

Hanifa Mohamed Yusuf<sup>38</sup> the author submits that organizational and legal factors are the major factors, which limit the adoption of e-commerce in municipal councils. On the other hand other factors such as cultural, technological and managerial are not significant as they do not limit the adoption of e-commerce in municipal councils. The researcher appeals to the government to institute legal framework, as it is an

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<sup>37</sup> Mwita Joseph Nyamboha (2004) *A Design of Electronic Shopping Facility, Dissertation Submitted in Partial Fulfillment of the Requirements for the Degree of Master of Engineering Management of the University of Dar es Salaam.*

<sup>38</sup> Hanifa Mohamed Yusuf (2006) *Factors Limiting the Adoption of E-Commerce in Municipal Councils: The Case of Ilala Municipal Council, MBA Dissertation, UDSM.*

important factor for building trust in e-commerce. In a nutshell Hanifa based her findings on the premise that substantial improvements and developments should be effected to the ICT to upgrade e-commerce in municipal councils.

Lloyd, I. J.<sup>39</sup> traces the history of developments in ICT back to some five thousand years ago at the invention of the abacus. As per him, the global concern for regulation of use of computers was not taken serious for long time owing to the perception that computers were mainly for mathematical uses.<sup>40</sup> The regulation of the use of computers emerged and actually carried legal significance with the phenomenon of digitalization which changed data into an almost totally pliable commodity.<sup>41</sup> Lloyd also discusses some relevant aspects of e-commerce such as, e-taxation, e-contracts and computer crime. However his discussion is centred on the UK laws and practices, which are herein not ignored as they are of paramount importance to this research. This research is based on the Attitude of Tanzanians toward E-commerce.

Mwiburi<sup>42</sup> establishes that EPOCA is missing important aspects to address most of the cyber related threats so as to provide a secure business environment. As per Mwiburi matters which are not addressed under the law include: issues of data security, electronic commerce, cyber crime, electronic and digital signatures, e-banking and other financial services. The author recommends that serious measures

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<sup>39</sup> Lloyd, I. J. (2000) Information Technology Law, 3<sup>rd</sup> Edition, Butterworths, London at p. 1.

<sup>40</sup> *Ibid* p. 2.

<sup>41</sup> *Ibid* p. 3.

<sup>42</sup> Mwiburi, A. J. (2011) Legal Implications of Developments in Information and Communication Technology; an Appraisal of the Electronic and Postal Communications Act, 2010 in Relation to Cyber Crimes in E-commerce in Tanzania, LL.M. Dissertation, UDSM.

should be undertaken to identify the identified lacunae. The measures suggested by the author include: enacting statute that will govern e-contracts, e-banking, e-signatures, data protection and security as well as computer crimes. The author reiterates that Tanzania cannot isolate itself from cyber crimes as Tanzanians are like any other human beings who look for loopholes to commit crimes, and probably the situation is worsened by the fact that a computer crime can be committed from any angle of the world, but with specific target of the intended victim. Mwiburi has inclined himself to deliberate on the Legal Implications of ICT with particular reference to the EPOCA, 2010 while this research is wholly focused on E-commerce.

Chaffey<sup>43</sup> states that we live in the era of “e-everything”. Managers are in the danger of being swept away from the deluge of information exhorting them to adopt everything from e-commerce.<sup>44</sup> The author submits the importance of his book is on how organizations can learn lessons from early adopters and the successes and failures of dot.coms like cisco and European airline EasyJet both which now derive over 80% of their revenue through electronic medium. Despite Chaffey’s book being resourceful to e-commerce this research remains mandatory as the literature on e-commerce in Tanzania is scanty.

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<sup>43</sup> Chaffey, D. (2002) E-business and E-commerce Management, Harlow, Pearson Education Limited

<sup>44</sup> *Ibid* p. 5.

Laudon<sup>45</sup> and others have written extensively on e-commerce. He commences his book by pointing out seven unique features of E-commerce which include: ubiquity,<sup>46</sup> global reach, universal standards, richness<sup>47</sup>, interactivity, information density and personalization or customization.<sup>48</sup> The authors recognize the most important role of the growth of the Internet and the Web, without which e-commerce would be impossible. The authors trace the origins and growth of the e-commerce in the late 1970's when a pharmaceutical firm named Baxter Healthcare initiated a primitive form of business to business e-commerce by using a telephone based modem that permitted hospitals to reorder supplies from Baxter.<sup>49</sup>

The authors have deliberated on e-commerce payment systems which encompass: digital cash, online stored value system, digital accumulating balance payment systems, digital credit accounts, and digital checking.<sup>50</sup> This research still finds merit as based on field research findings whereas the book is founded on library research. This research is necessary to give effect and test what is contained in the book.

Schneider<sup>51</sup> categorizes electronic commerce by types examining the types of entities participating in the transactions or business processes.<sup>52</sup> The five general electronic commerce categories as per the author are business-to-consumer,

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<sup>45</sup> Laudon K. C Et al. (2003) E-commerce: Business, Technology and Society, 2<sup>nd</sup> Edition, Boston, Pearson Education Limited.

<sup>46</sup> *Ibid* means that e-commerce is available just about everywhere, at all times.

<sup>47</sup> *Ibid* means complexity and content of the message.

<sup>48</sup> *Ibid pp. 13-16.*

<sup>49</sup> *Ibid p. 21.*

<sup>50</sup> *Ibid p. 315.*

<sup>51</sup> Schneider, G. (2007) Electronic Commerce, 7<sup>th</sup> Annual Edition, University of San Diego.

<sup>52</sup> *Ibid p. 5.*

business-to-business, business processes, consumer-to-consumer, and business-to-government. The author makes it clear that the three are most commonly used namely: consumer shopping on the Web, often called business-to-consumer (or B2C); transactions conducted between businesses in the Web, often called business-to-business (B2B) and transactions/business processes in which companies, governments and other organizations use the Internet technologies to support selling and purchasing activities. The author notes that businesses operating on the Web face two complicating factors as they try to comply with the law.<sup>53</sup> First, Web extends a company's reach beyond traditional boundaries businesses and secondly Web increases the efficiency and speed of business communications hence much more complex and interactive relationships with online merchants which in turn may violate the law or breach ethical standards. It is noted with great acknowledgement that Schneider's literature is of great importance to this research. However this research finds justification since it is based on the circumstances, laws and practices of Tanzania while Schneider's book is wholly based on the circumstances, laws and practices of USA which is wholly different from that of Tanzania.

Ponte<sup>54</sup> holds that the global online revenues was estimated to reach trillions of Dollars by 2005, and disputes over online transactions was likely to increase the continuing expansion of the World Wide Web. The author cautions that there are no uniform laws or court systems in the global marketplace of the online world hence e-business need to consider steps to help manage its online disputes fairly, efficiently

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<sup>53</sup> Ibid p. 311.

<sup>54</sup> Ponte, L.M. (2004) Online Dispute Resolution (ODR) for E-commerce, Upper Saddle River, New Jersey, Pearson Education Limited.

and effectively. The author gives an answer to the question: can I be sued online? He gives an answer by stating that any business can be sued at anytime by anyone for a claim that may or may not have merit. The author establishes that there are many forms of jurisdiction, the arena of personal jurisdiction being one of the main ways that an e-business may find summoned into a court in another state.<sup>55</sup> The author elaborates further that since more than one court may have personal jurisdiction over the same parties which may lead to multiple legal actions in different forums of different states over the same factual disagreement then online dispute resolution may take proactive steps to better manage personal jurisdiction concerns. The author gives an example of USA where these take three avenues namely: party presence within territorial borders, volunteering jurisdiction and long-arm statutes.<sup>56</sup> The author hails online dispute resolution for maintaining confidentiality, privacy, information security, less expensive and less time is spent. This research remains a must as online dispute resolution is unknown in Tanzania and even alternative dispute resolution is still new as it was introduced about two decades ago.

Another literature referred is that of Mwenegoha, T.<sup>57</sup> In this literature it is well established that advancement of technology and globalization has a range of implications on the economic and legal spheres. The author opines that institutions engaged in business employ various means as they strive to survive in the competitive market with sometimes little concern for the consumers' welfare.<sup>58</sup> As a

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<sup>55</sup> *Ibid* p.3.

<sup>56</sup> *Ibid* p. 4.

<sup>57</sup> Mwenegoha, T. (2005) Rights of Telecommunication Consumers: The Case of Mobile Phone Services in Dar es Salaam, LL.M Dissertation, UDSM.

<sup>58</sup> *Ibid* Abstract p. v.



result there has been a rapid increase in the volume of consumer rights violations.<sup>59</sup> Consumers, including those in the telecommunications sector, are left vulnerable in this rapidly changing world. She remarks that most of the implementation organs provided under the available Telecommunications laws are not yet established hence the consumers remain unprotected in this age of technological advancements beyond borders.<sup>60</sup>

She notes further that there is lack of consumer education, lack of effective consumer redress, lack of opportunity for consumers to air out their views and concerns in decision making processes affecting them and lack of protection of consumers from hazards to their health and safety. She recommends that while it is prudent to safeguard the interests of the investments and ensure that investors do not become bankrupt, due consideration should also be given to the plight of the consumers.<sup>61</sup> Mwenegoha is focused on the Consumer protection in the telecommunications industry as part and parcel of the ICT, this study focuses on the wide area of E-commerce in Tanzania which is in a precarious state. Research on e-commerce in Tanzania is an urgent measure that ought to be undertaken in order to avert the electronic commerce associated threats which are the stumbling blocks to the sector and Tanzania stands to confront.

#### **1.4 Research Objectives**

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<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid* p. 162.

<sup>61</sup> *Ibid* p. 176.

### **1.4.1 The general Objective**

The main objective of this research was to examine the attitude towards e-commerce contract transactions in Tanzania.

### **1.4.2 Specific Objectives**

- i. To examine the perceptions of the people residing in Dar es Salaam on electronic commerce in their contract transactions; and

To assess the hindrances associated with the adoption and application of electronic commerce in contract transactions in Tanzania.

## **1.6 Significance of the Study**

This part addresses the reasons why the research is conducted or simply what the research seeks to achieve.<sup>62</sup> This encompasses the targeted audiences who will benefit from the findings of this research who include but not limited to the following:

The parliament, which covers both the President and National Assembly, charged with the responsibility of enacting legislative pronouncements where the implementation requires legislation.<sup>63</sup> Basing on the premise that a comprehensive ICT Law is in pipeline, the parliament which is law-making body will make the most

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<sup>62</sup> Majamba, H.I. (2009) Fundamentals of Legal Research: A Law Student's Companion, UDSM at. 51.

<sup>63</sup> Constitution of the United Republic of Tanzania, 1977 [Cap. 2 R. E. 2002] article 62 (1) is to the effect that the Parliament consists of two parts, that is to say, the President and the National Assembly. Under article 63 (3) (d) the National Assembly is empowered to enact laws where implementation requires legislation.

use the researcher's findings in such enactment to regulate the Electronic commerce among other issues.

Another targeted audience is banking and financial institutions operating in Tanzania who still function through outdated manual data keeping and transactions. The findings of this research will provide such institutions with safe guards available to them in adopting cheque truncation, Electronic Funds Transfer the best example of which is the Society of Worldwide Interbank Financial Telecommunications (SWIFT), digital signatures, electronic surveillance and CCTV.

Businessmen are also another targeted audience as they tend to have a rigid stereotype of embracing old systems of business and yet too reluctant to adopt e-commerce in their transactions. The research is intended to come up with comprehensive findings on the emerging issues in e-commerce like e-contracts. These are contracts which do not necessarily involve parties in a continuing relationship, rather one –off transactions between the parties who have never met.<sup>64</sup> Such people though they have never physically met are not barred from forming legally binding contracts by e-mail and that is what this research intends to achieve. In a nutshell this research is targeting inter alia at changing behaviours and usages of business so that they can conform to the most recent developments in the area of commerce.

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<sup>64</sup> Chissick M. and Alstair Kalman (2002) *Electronic Commerce: Law and Practice*, 2<sup>nd</sup> Edition, London, Sweet and Maxwell.

The last audience that will benefit from the findings of this research findings are the policy makers in the Ministry of Communications, Science and Technology and other regulatory agencies made under it. These institutions have few sources to resort to as literature in this area is scanty. The few literature available is based in the field of commerce and management point of view and not in the area of Law.

### **1.6 Scope and Limitations of the Study**

The research is structured into four main chapters namely: Introduction; Legal Framework and Practical Applicability of E-commerce in Tanzania; Field Research Findings and analysis, Conclusion and Recommendations. The limitations faced by the researcher in the course of the research include: late remittance of the questionnaires to the researcher by some respondents; reluctance to fill in the questionnaire by some respondents; adamancy of some respondents to respond to the questions and low literacy rate prevailing in Tanzania.

### **1.7 Research Hypotheses**

This research has tested two assumptions (questions) which are:

- i. That Tanzania is reluctant to adopt e-commerce due to lack of skilled personnel and meager financial resources; and
- ii. That the adoption of e-commerce is an ideal scheme of bailing Tanzania out of technological and economic backwardness.

### **1.8 Research Methodology**

### **1.8.1 Study Area**

The study area was at *Kinondoni* Municipal in Dar-es-Salaam City. Dar es Salaam was selected as study area because is the largest commercial city in Tanzania. Furthermore Dar es Salaam is the headquarters of large companies and most of the Multinational Corporations in whose operations e-commerce as order of the day.

### **1.8.2 Sample Size**

The population was stratified into the richer, medium, and the poor people. For each stratum 50 respondents will be selected randomly for data collection.

### **1.8.3 Methods of Data Collection and Research Tools**

The interview with structured questionnaire (with both close and open ended questions) was used as the main tools for data collection. The questionnaires consisted of questions designed to collect information on demographics, Internet usage, and e-commerce activities (frequency of commerce and type of purchase, means used to accomplish purchase, transaction experience, and perceptions of e-commerce in Tanzania).

### **1.8.4 Data Analysis**

The descriptive statistical analysis was used to assess the attitude of Kinondoni's people towards e-commerce.

### **1.8.5 Study Duration**

This study covered three months from June through August 2013. Data collection through questionnaire was between 1<sup>st</sup> to 20<sup>th</sup> June, 2013. Data entry and analysis was from 21<sup>st</sup> June to 30<sup>th</sup> June, 2013. The report writing was in 1<sup>st</sup> July, 2013 to 7<sup>th</sup>

July, 2013 and dissertation first draft was submitted on 10<sup>th</sup> July while the final draft of the dissertation was submitted on 15<sup>th</sup> August, 2013.

## CHAPTER TWO

### 2.0 LEGAL FRAMEWORK AND PRACTICAL APPLICABILITY OF ELECTRONIC COMMERCE IN CONTRACT TRANSACTIONS IN TANZANIA

#### 2.1 Introduction

Under this chapter, different laws governing electronic commerce in contract transactions in Tanzania are analyzed. This chapter explores the adequacy of Tanzania legal regime in accommodating the adoption and application of electronic commerce in contract transactions. The issue of e-commerce is given impetus in the instant study as humankind is said to enter into and conclude a number of legally binding and enforceable agreements called contracts each day knowingly or unknowingly. This part examines to what extent e-commerce is covered in such contracts. The chapter focuses *inter alia* on the ICT legal and regulatory framework in Tanzania prior to and after the enactment of the Electronic Postal Communications Act, 2010. Finally, the chapter concludes with the general observations on the legal framework and practical applicability of e-commerce in contract transactions in Tanzania.

#### 2.2 Situation Prior to the Enactment of EPOCA

It will be misleading to argue that Tanzania has never had ICT law since independence.<sup>65</sup> Taking ICT in its wider sense, it is apparent that the regulation of broadcasting services, posts and telecommunication services, in early 1960's and

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<sup>65</sup>Mwiburi, A. J. (2011) Legal Implications of the Developments in ICT: An Appraisal of the Electronic and Postal Communications Act, 2010, LL.M. Dissertation, UDSM, 2011.

1970's falls squarely within the scope of ICT legal and regulatory framework.<sup>66</sup> Examples of these pieces of legislation include: the Broadcasting Receiving Apparatus (Licencing) Act<sup>67</sup>, the Tanganyika Broadcasting Corporation Dissolution Act<sup>68</sup>; and the Tanzania Posts and Telecommunications Corporation Act.<sup>69</sup> With time, these pieces of legislation became outdated. They were, consequently, repealed and replaced with new ones, namely, the Tanzania Posts Corporation Act<sup>70</sup>; the Tanzania Telecommunications Company Incorporation Act<sup>71</sup>; and the Tanzania Communications Act.<sup>72</sup>

According to Mbunda, L. X., the year 2003 may be regarded as the watershed in the development of the telecommunications industry in Tanzania.<sup>73</sup> Firstly, two policies were formulated: the national ICT policy, 2003; secondly, the Tanzania Communications Regulatory Authority Act<sup>74</sup> was enacted and, among other things, merged the regulators into one, the Tanzania Communications Regulatory Authority Act (commonly known as TCRA). Prior to TCRA, there were two bodies established by different pieces of legislation: the Broadcasting Services Act establishing Tanzania Broadcasting Commission<sup>75</sup> and the Tanzania Communications Commission respectively.<sup>76</sup>

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<sup>66</sup> *Ibid.* P. 31.

<sup>67</sup> Act No. 6 of 1964.

<sup>68</sup> Act No. 11 of 1965.

<sup>69</sup> Act No. 15 of 1977.

<sup>70</sup> Act No. 19 of 1993.

<sup>71</sup> Act No. 20 of 1993.

<sup>72</sup> Act No. 18 of 1993.

<sup>73</sup> Mbunda, L. X., (2004) , 'Legal and Regulatory Framework of Broadcasting in Tanzania', Eastern Africa Law Review, Vol. 31-34, p. 3.

<sup>74</sup> Act No. 12 of 2003.

<sup>75</sup> S. 5 of the Act No. 6 of 1993.

<sup>76</sup> S. 3 of the Act No. 18 of 1993.



The changes introduced by the Tanzania Communications Regulatory Authority Act in 2003 did not repeal and replace the two mentioned pieces of legislation, but rather it made considerable amendments to the Acts.<sup>77</sup> This means that the TCRA Act was to be read in *tandem* the Broadcasting Services Act and the Tanzania Communications Act. Since 2003 onwards, the Tanzania Communications Regulatory Authority Act became an official communications watchdog in the country.

In depth study of the above statutes reveals that they are silent about the regulation of electronic communications in the country leave alone electronic commerce in contract transactions. None of the statutes was meant to address contemporary forms of ICT and its application in e-commerce, the Internet and computer crimes. Furthermore, the ICT policy openly states that there was a gap calling for a more serious legal regulatory framework to oversee the development of ICT and pacify the provision of ICT services to as many people as possible.<sup>78</sup> This, therefore, means that, the enactment of EPOCA, 2010 was not accidental; it was meant to cover the already identified lacuna in the local ICT jurisprudence.

### **2.3 Situation After Enactment of EPOCA**

With technological advancements, a point reached at which it was inevitable to repeal and replace the Broadcasting Services Act, 1993 and the Tanzania Communications Act, 1993. Thus the Parliament passed the Electronic and Postal

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<sup>77</sup>Mwiburi op. Cit. Note 66 at p. 32.

<sup>78</sup>Ministry of Communications and Transport, National Information and Communications Technologies Policy, 2003, p. 1.

Communications Act on 29<sup>th</sup> January, 2010. The Act was assented to by the President on 14<sup>th</sup> March, 2010, and operationalized by the Minister of Communications, Science and Technology on 18<sup>th</sup> June, 2010.<sup>79</sup>

The Act imposes more duties on network service licensees or operators, agents and customers, which include duty confidentiality except where the information is required by any law enforcement agency, court of law or other lawfully constituted tribunal;<sup>80</sup> duty to report theft, loss of mobile telephone or SIM card<sup>81</sup>; duty to use registered mobile telephone and SIM card<sup>82</sup> and duty to report change of ownership of mobile telephone or SIM card.<sup>83</sup>

Under the Act, the Minister responsible for communications and the Authority are empowered to make Regulations and Rules, respectively, upon the recommendation of the committee on content related matters.<sup>84</sup> Also the Act provides guidelines for the adoption of a code of conduct for content services licensees, which concerns mainly prohibition of provision of content which is indecent, obscene, false, menacing or otherwise offensive in character.<sup>85</sup> It is hereby submitted that these strict regulation of ICT is craved to provide favourable environment for the flourish of e-commerce in contract transactions free of fraud, misrepresentations of unlawful considerations.

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<sup>79</sup>[http://www.tcra.go.tz./headlines/Public Notice EPOCA.PDF](http://www.tcra.go.tz./headlines/Public%20Notice%20EPOCA.PDF) retrieved on 10<sup>th</sup> June 2013.

<sup>80</sup>EPOCA, 2010 Ss. 98 and 99.

<sup>81</sup>*Ibid.* S. 100.

<sup>82</sup>*Ibid.* S. 101.

<sup>83</sup>*Ibid.*s. 102.

<sup>84</sup>*Ibid.* S. 103.

<sup>85</sup>*Ibid.* S. 104 (1) (b).

Part V of EPOCA deals with enforcement aspects. The authority is vested with powers to be an officio watchdog, hence it may take enforcement measures against any person who contravenes the Act and any other Regulations made there under.<sup>86</sup> The Authority may also exercise its powers to enforce the law by appointing any person to carry out the inspection on its behalf within the limits of the Act.<sup>87</sup> Part VI of the same Act deals with offences and penalties. For the first time in Tanzania, the law puts in place some computer crimes and other offences related to electronic communications. The offences introduced by the Act include: failure to comply with license requirements; failure to observe assignment requirements; transmission of obscene communication; disclosure of interception to others by unauthorized persons; fraudulent use of network facilities; interference of transmission of electronic communications and unauthorized access or use of computer system.<sup>88</sup>

It is pertinent to note that the major reason behind creation of offences is deterrence to ensure compliance with the law. The offences appear to have been created to provide a safe and conducive atmosphere for the growth of e-commerce in contract transactions which humankind is said to enter and conclude everyday whether knowingly or unknowingly. However, still some aspects are missing in the offences and penalties so created hence e-commerce is not water-tightly managed under the Tanzania legal regime where electronic commerce in contract transactions is still in its nascent stages of development

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<sup>86</sup>*Ibid.* S. 115 (1).

<sup>87</sup>*Ibid.* S.116.

<sup>88</sup>*Ibid.* Ss. 117-124.s

## **2.4 The Companies Act**

Company registration in Tanzania is regulated under the auspices of Business Registration and Licensing Agency (BRELA) which is mandated among other things to provide services of company registration, patents registration, business names registration, trademarks registration and industrial licensing.<sup>89</sup> The experience shows that business registration and licensing is still a paper-based process in Tanzania despite technological changes. This is caused by the fact that the current laws were made before the current technological developments were reached, and no amendment have been made to statutes to reflect the development.

The Executive Agencies Act, the Companies Act, the Business Names (Registration) Act, National Industries (Licensing and Registration) Act, and Business Activities Registration Act do not recognize electronic commerce in their daily transactions. The only achievement worth mentioning in so far as BRELA services are concerned is the recent availability of company and business names search services online.<sup>90</sup>

## **2.5 The Law of Contract Act**

All contracts transactions in Tanzania are regulated under the Law of Contract Act. The Law of Contract Act governs all aspects of contract including essentials of a valid contract. It is pertinent to subscribe with the views of Law Reform Commission of Tanzania, that current position of communication of acceptance of an offer by post in Tanzania is derived from the English Common law as enunciated

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<sup>89</sup>Executive Agencies Act, Act No. 30 of 1997.

<sup>90</sup><http://www.brela-tz.org/company.php?srch=1> as visited on Monday 17<sup>th</sup> June 2013.

in the cases of *Adams vs. Lindsell*<sup>91</sup> and *Household Fire Insurance vs. Grant*<sup>92</sup> and that it is paper-based and ill-afford to accomodate electronic contracts.<sup>93</sup> The present regime governing contracts is said to leave some questions unanswered. For instance, questions like when using the Internet, at what time is communication deemed to be an offer and to bind the offeror, and at what time acceptance is deemed to be effective, and said to be well addressed under the present law.<sup>94</sup>

In other jurisdictions like USA, the electronic signatures in Global and National Commerce Act (also known as, ‘E-Sign’) was passed and became effective on 30<sup>th</sup> June, 2000 to provide answers to unanswered questions on postal rule of communication of offer and acceptance and admission of digital signatures in courts as real evidence.<sup>95</sup> It’s most important goal was to make it clear that electronic records and signatures can form legally binding contracts.<sup>96</sup> It is worth mentioning that as of now, it is clear that electronic evidence is admissible in court proceedings provided that it was obtained in the course of normal or ordinary conduct of business.<sup>97</sup>

It is worth mentioning that enactment of EPOCA in 2010 does not provide for any amendments to the Law of Contract Act, as to render it accommodate electronic

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<sup>91</sup>(1818) 1B & Ald. 681).

<sup>92</sup>(1879) L. R. 4EX DN. 26).

<sup>93</sup>Law Reform Commission, (2008), ‘A Position Paper on E-commerce in Tanzania’ at p. 3.

<sup>94</sup>*Ibid.* P. 4.

<sup>95</sup><http://www.knowyoursigns.com/id3.html> as visited on Monday 17th June, 2013.

<sup>96</sup>*Ibid.*

<sup>97</sup>Ss. 32-25 of the Written Laws (Miscellaneous Amendments) Act, No. 15 of 2007 read together with the Evidence Act, 1967 specifically s. 40 A.

contracts. In other words, the enactment of EPOCA, 2010 did not change position of paper-based nature of contract transactions in Tanzania.

Since this dissertation is wholly focused on electronic commerce in contract transactions in Tanzania, convenience demands to assess legal challenges associated with electronic contracts. For instance, firstly, the law requires some contracts shall be in a particular form, such as deed or writing, the question here is how this legal requirement can be met under e-contract regime?<sup>98</sup> Secondly, there may be doubts as to when a contract is made, and if parties are in different countries, which country's law applies to the contract.<sup>99</sup> This is due to the fact that the traditional principles of private international law (Conflict of laws) applicable to contracts may apply with very little significance in electronic contracts. Thirdly, evidential weight of electronic documents must be considered, assessed and dealt with diligently due to likelihood of it being tempered-easily by the person tendering it in court.<sup>100</sup>

## **2.6 The Banking and Financial Institutions Act**

It is of great importance to note that there is a contract transaction in banker-customer relationship where a potential customer of banker shows up in person or via e-mail, opens up and subsequently maintains a bank account with a banker subject to some terms and conditions. Likewise a customer signs either manually or vide digital signature to signify that he is bound by what he supplied in the paper

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<sup>98</sup>Bainbridge, D. I.,(2008), Introduction to Information Technology Law, 6th Edition, London, Pearson Education, p. 357.

<sup>99</sup>*Ibid.*

<sup>100</sup>*Ibid.*

work and it is true and correct to the best of his knowledge and belief. The banking and financial institutions law in Tanzania include: the Bank of Tanzania Act<sup>101</sup>; the Banking and Financial Institutions Act<sup>102</sup>; the Foreign Exchange Act<sup>103</sup> and Bills of Exchange Act.<sup>104</sup> The functions of banks and financial institutions can be categorized into three categories namely: informational, communicational and transactional.<sup>105</sup>

In Tanzania, almost all three categories of services classified above are offered by banks and financial institutions via computers and mobile phones, though some are offered limitedly. However, an appraisal of the current law shows that there is no provision addressing the required standards stated above. There is no system of law in Tanzania to address electronic and digital signature, e-banking, data privacy and security. The effects of the above gaps may be many but serious ones include: high probability of occurring bank frauds, unimaginable losses may be suffered by both banks and customers and even growth of banking sector may be rendered dormant.<sup>106</sup> Likewise financial transactions via mobile phone providers like M-PESA, TIGO-PESA, AIRTEL MONEY and EASY PESA though conducted electronically they are to a large extent unregulated under the Tanzania legal regime. Such financial transactions constitute contracts in electronic commerce between a customer and mobile service provider or its agents.

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<sup>101</sup> Act No. 4 of 2006.

<sup>102</sup> Act No. 5 of 2006.

<sup>103</sup> Act No. 1 of 1992.

<sup>104</sup> (Cap. 215 R. E. 2002)

<sup>105</sup> Alem, M. Y., 'E-Banking and Other Financial Services: Developments in Some Selected Arab Countries', (2000) at p. 4 (Unpublished).

<sup>106</sup> Kindly see Mwiburi, A. J. *Op. cit.* note 66.

## 2.7 Electronic Taxation

Electronic taxation refers to a situation where a taxpayer can access tax services via electronic means. In other words, a person can register a taxpayer, file returns, receive tax assessment, send inquiries, and finally make payment of the due taxes online. These transactions, if done electronically have the effect of fostering the growth of e-commerce and subsequently augmenting revenue collection through e-taxation. (Kindly refer appendix D at the end of this dissertation.

Among tax services now available electronically online include: registration for taxpayer identification number (TIN)<sup>107</sup>; value added registration number (VRN)<sup>108</sup>; application for customs license (CULAS)<sup>109</sup>; pay as you earn (PAYE) calculate; pre-arrival declaration system, which is online system for declaring imported goods before arrival for tax assessment purposes.<sup>110</sup> On top of that, direct tax payment from taxpayer's bank account to TRA's account can be made electronically online through Tanzania Inter-bank Settlement Systems (TISS) maintained and regulated by the Bank of Tanzania payments and e-banking respectively.<sup>111</sup> M-payments is simply the transference of value from payer to the payee, as a remittance or bill payment.<sup>112</sup>

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<sup>107</sup> Income Tax Act, s. 133.

<sup>108</sup> Value Added Tax Act, s. 19.

<sup>109</sup> East African Community Customs Management Act, 2005 s. 145.

<sup>110</sup> <http://www.tra.go.tz/>. Visited on Friday 21<sup>st</sup> June, 2013.

<sup>111</sup> Allen, H., (2003) "Innovations in Retail Payments: e-payments", Bank of England Quarterly Bulletin, Winter.

<sup>112</sup> Krugel, G., (2005) "Extending the Payments Franchise to the Mobile Phone", Presentation to the FinMark Forum.



The history of mobile money transfer in Tanzania traces its way back in 2007 when Vodacom Tanzania launched its famous Mobile Money transfer system in Tanzania in the name of M-

### **2.7.1 Other Aspects of E-commerce in Contract Transactions**

The development in electronic commerce has been of great importance to business in Tanzania. This means the integration of technology in commerce in contract transactions has improved the flow and supply of both goods and services ubiquitously.<sup>113</sup> For instance, a survey reveals that among 106 Small and Medium Enterprises (SME's) it was noted that: 100% of travel agents had Internet connection; 96% of tour operators had access to the Internet; and 92% of hospitality firms were connected to the Internet.<sup>114</sup>

The trend shows that mostly air ticketing transactions are done online, from booking to distribution. Furthermore, automobiles importation business is highly regulated electronically via the Internet in Tanzania. As revealed in the chapter on field research findings, most Tanzanians now order and pay for their motor vehicles and other goods electronically online from the manufacturers or sellers abroad. All these transactions constitute contracts which carry within them the elements of e-commerce though the same is not expressly provided for under the Law of Contract Act as a framework piece of legislation governing contracts in Tanzania.

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<sup>113</sup>Ubiquity means the quality of being everywhere and at any time.

<sup>114</sup>Kamuzora, F., ``E-commerce Journey of Tanzania SME's: The Case of Tourism Industry``. A Paper Presented at the Tanzania Development Gateway Workshop on the use of ICT for SMEs Development: Opportunity and Challenges, Dar es Salaam, 11, April, 2005.

### 2.7.1 Mobile Money Transfer as an Aspect of E-Commerce in Tanzania

Mobile money transfer is a financial transaction undertaken using a mobile phone device. Mobile money transfer commonly known as M-Money (*or m-pesa* in a colloquial *Kiswahili*) involves access by mobile device to the broader range of products offered by the banks. M-payments and M-banking as aspects of e-commerce are themselves subsets of the broader domains of e-payments and e-banking respectively.<sup>115</sup> M-payments are simply the transference of value from payer to the payee, as a remittance or bill payment.<sup>116</sup>

The history of mobile money transfer in Tanzania traces its way back in 2007 when Vodacom Tanzania launched its famous Mobile Money transfer system in Tanzania in the name of *M-PESA*.<sup>117</sup> Then followed other mobile service providers like CELTEL that came up with ZAP; TIGO came up with TIGOPESA and ZANTEL introduced EZYPESA. Since then *M-PESA* has been internationally recognized as a global pioneer in terms of mobile payment systems. With 10.2 million subscribers at the end of 2009, transactions worth 70.48 billion were made through *M-PESA* in 2009. Although it has not been the major genuine revenue generator for the operator, the fact that it has made a contribution to a customer is worth mentioning.<sup>118</sup> In Tanzania as of now there are four prominent mobile money transfer operators namely: Vodacom: *M-PESA*; TIGOPESA; AIRTEL MONEY; and ZANTEL:

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<sup>115</sup> Allen, H., (2003) "Innovations in Retail Payments: e-payments", Bank of England Quarterly Bulletin, Winter.

<sup>116</sup> Krugel, G., (2005) "Extending the Payments Franchise to the Mobile Phone", Presentation to the FinMark Forum.

<sup>117</sup> *Pesa* is a *Swahili* word for money while M stands for Mobile hence *M-PESA* may be literally translated as mobile money.

<sup>118</sup> Sullivan and Frost, 2009.

EZYPESA. As noted earlier, M-PESA service offered solely by Vodacom in Tanzania appears to be the earliest, most subscribed with extensive coverage countywide and most successful as well. M-PESA has been touted as “banking the unbanked” though it covers largely the already banked as noted by FinMark Trust in 2006 which concluded that it is only less than 30% of the East Africans have formal bank accounts.<sup>119</sup> However, in Tanzania it is only 15% of the population that has an access to banking services.<sup>120</sup> The rest 85% remains unbanked. In other words, it may rightly be argued that the mobile money transfer as an aspect of e-commerce in Tanzania has been a hot cake or an opening floodgate for the 85% of the unbanked Tanzanian population.

It is worth mentioning that opportunities associated with mobile money transfer in Tanzania include: storing or preserving customers’ money for emergency uses; paying bills or utilities like electricity bills, water bills, decoder bills, school fees, decoder fees; transferring money and buying airtime. On the other hand challenges facing e-payment as an aspect of e-commerce in Tanzania include: frequent system failures, frequent network problems, cash withdrawal problems whereby the mobile money operators agents’ run out of cash sometimes, customers inserting wrong recipient (transferee) numbers in which money is transferred to a wrong person and customers’ PIN numerical being revealed or diverted to and used by a third party

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<sup>119</sup> Nasari, V., (2011) “Adoption of Mobile Payment (M-Payments) Services in Tanzania Opportunities and Challenges: The Case Study of M-PESA and ZAP”, UDSM, MBA Thesis at p. 19.

ZAP service formerly offered by the former CELTEL is equivalent to the AIRTEL MONEY now offered by Airtel which acquired the former CELTEL.

<sup>120</sup> Bank of Tanzania (BoT) report.

who would ultimately withdraw all customer's money without the customer's prior knowledge. Furthermore though mobile money transfer in Tanzania is regulated by the Bank of Tanzania under Finance Intelligence Unit (FIU), it is still not water-tightly regulated to curb theft and fraud. It is rightly noted by Mwiburi that mobile money transfer as an aspect of e-commerce in Tanzania contravene the provisions of Banking and Financial Institutions Act, 2006.<sup>121</sup>

The author recommends further that it is dangerous to allow the same to proceed for several security reasons.<sup>122</sup> Firstly, there is no law governing these mobile phone supported financial service.<sup>123</sup> Secondly, the requirements for capital reserves and accounts as applicable to licensed banks for security purposes do not apply to the mobile phone companies.<sup>124</sup> This implies that in case the mobile phone companies are declared bankrupt or for any other reason or cause collapse, then the customers who have deposited their cash with the mobile phone companies would have no security to rely upon.<sup>125</sup>

The researcher recommends that mobile money transfer as an aspect of e-commerce obtaining in Tanzania should be sufficiently accessible, available and affordable to the unbanked rural Tanzanians; mobile phone operators should install new technology that allow users of M-payment services to have unhindered access to the

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<sup>121</sup> Mwiburi, A. J., (2011) "*Legal Implications of the Developments in ICT: An Appraisal of the EPOCA, 2010 in Relation to Cybercrime in E-Commerce in Tanzania*", UDSM, LL.M. Dissertation at pp. 53 and 54.

<sup>122</sup> *Ibid.*

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.* see also Banking and Financial Institutions Act, 2006 ss. 16-21.

<sup>125</sup> *Ibid* see Mwiburi.

commercial banks' ATMs.<sup>126</sup> Other recommendations include to invest in the latest state-of-the-art technology to minimize or eliminate system failures or network problems; frequent training of mobile payment operators on how to get rid of the operationalised problems and wrong number entries and lastly to enact laws and Regulations on mobile money transfer as neither the Banking and Financial Institutions Act, 2006 nor the Bills of Exchange Act [Cap. 215] apply to mobile money transfer. The government should seriously try to educate her citizens on the confidentiality of a personal's secret pins of their mobile phones because one who happens to know another's secret phone number would easily tamper stealing the money of the said person without his knowledge.

One practicable example may demonstrate the risk of mobile money transfer obtaining in Tanzania. When I was in the University a student managed to withdrawal his roommate's money from CRDB bank after having known his roommate's pin code which was kept in his mobile phone. The said roommate borrowed a mobile phone pretending that his mobile was not functioning but in the actual fact he had a *mens rea* from the beginning to come across with his friend's secret pin so that he can take the money from his bank account after having established that the secret pin number is kept in the mobile phone.

However it is worth mentioning that the ingenious scheme of the fraudulent student was later on discovered by the banker after the defrauded student having lodged a

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<sup>126</sup> The vivid example is NMB plc and CRDB plc whose ATMs are connected to the M-PESA services. More banks are strongly encouraged to emulate the same. Likewise. The Tanzania Postal Bank (TPB) has recently launched the 'TPB *Popote*' campaign. '*TPB Popote*' literally means 'Tanzania Postal Bank (TPB) anywhere.'

complaint to the banker thanks to the banker's CCTV surveillance system that recorded the whole fraudulent transaction and nabbed the fraudulent student. So in brief mobile money business do operate in Tanzania but no sufficient knowledge has so far been impacted/ given to the citizens on the risk of disclosing secret codes to another person.

## **2.8 Conclusion**

Though the technological developments seem to be very fast, but legal framework to support it is advancing slowly. This means that the law has not been able to keep pace with the technological developments of e-commerce in contract transactions hence leaving behind a *lacuna* which need to be filled. For example it is noted by Mwiburi that while the history of importation and use of computers can be traced back in 1970`s the statute to regulate the same was passed in 2010.<sup>127</sup> However, the same law has not been able to address important aspects of ICT in terms of providing suitable environment for electronic commerce and combating cyber crime.

Among others, the law has neglected to address important aspects like recognition of electronic commerce, digital signature, issues related to identity, e-taxation and online registration of business and companies. This being the case, it is hard to argue that the current legal regime favours the smooth operation of electronic commerce in contract transactions in Tanzania.

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<sup>127</sup>Mwiburi,A. J., *op. Cit* note 66.

## **CHAPTER THREE**

### **3.0 FIELD RESEARCH FINDINGS AND ANALYSIS**

#### **3.1 Introduction**

This chapter consists of analysis of concepts, laws and facts collected from the field and their analysis. The main data collection tool used to implement the same was structured questionnaires which were administered to a total of 150 respondents. The respondents were categorized into three strata namely: upper class; middle class; and the lower class, each being allotted 50 questionnaires of exactly the same wording and specifications. Questionnaires for the upper and middle class were published in English while those of the lower class were published in *Kiswahili* language for convenience and easier administration. Kindly refer to the questionnaire sample appended at the end of this dissertation. Moreover, the questionnaires were craved with a view to answering the research objectives and hypothesis. Such responses from the respondents can be analyzed as here below:

#### **3.2 Responses from the Respondents**

##### **3.2.1 Perception by the Respondents of E-commerce in Contract Transactions in general**

Mr. Michael Mwangoka of Kenny Supplies and General Services was of the view that e-commerce refers to undertake business transactions online through electronic sales and purchase transactions. He opined further that e-commerce in contract transactions is faster, secure, cheaper, easier, time saving, reliable and convenient than manual sale and purchase transactions. On the same breath he rightly observed

that considering the structure of the continents (landmass of 29% and waters occupying 71%) marine transport is the most convenient means of safe-handling the movement of goods from one point of the world to another where contract and payment are made via electronic commerce. He vouched developing countries to create infrastructure which facilitates conclusion of contracts and effecting of payments via electronic means possible and safer.

As to payments, Mr. Mwangoka opined the overseas buyer has to pay through bank and the bank issue SWIFT copy to acknowledge that the money paid has been received safely. Likewise, when a credit card is used, the exporter will acknowledge receipt electronically vide e-mail or courier service. As regards to who is responsible for damage to goods purchased electronically from abroad, Mr. Mwangoka, an experienced e-commerce actor based in Dar es Salaam said liability depends on the type of the contract. For instance, under CIF contract, the seller and the insurer shoulders the burden of damage to the goods. On the contrary, once FOB contract is opted, the liability of damage to the goods shifts to the buyer. In other words, liability to the goods depends upon the terms and conditions of the marine contract of carriage as stipulated in the INCOTERMS 2011.

Jordan Chalamila observed that electronic commerce entails the buying and selling of products and services over electronic systems such as the Internet. The same respondent is pro-electronic commerce in contract transactions as an ideal scheme of bailing Tanzania out of technological and economic backwardness. He recommends that among the crucial items in electronic commerce in contract transactions is a bill



of lading, which is, official document issued by the carrier or shipper listing and acknowledging the receipt of goods or cargo and terms of delivery to the final destination.

Observations by Mr. Jordan find justifications under Schmittoff, Export Trade Law since a bill of lading serves as a marine receipt, document of title and evidence of contract of carriage of goods named therein. As to what problems most commonly arise during the clearing of goods purchased electronically, it was opined by Mr. Jordan to late receipt of shipping documents such as invoice, bill of lading and packing list; unrealistically long procedure of customs declaration and poor infrastructure to accommodate the demands of e-commerce at the Dar es Salaam port. As regards on how to avert the complications pre-shipment customs declaration and port or demurrage charges, the buyer is obliged to commence the process of documents declaration prior to the arrival of the goods.

On other problems associated with e-commerce in contract transactions in the circumstances of Tanzania are bureaucratic red tapes by TRA and Dar es Salaam port officials, and lack of technical know-how of IT of most of businessmen and women. Rate of Adoption and Application of E-commerce in Contract Transactions

As to the rate of adoption and application of electronic commerce in contract transactions in Dar es Salaam, Tanzania, the findings can be summarized as shown in Table 3.1.

**Table 3.1: Rate of Adoption and Application of E-commerce in Contract****Transactions**

<b>Number</b>	<b>Rate</b>	<b>Number of Respondents</b>	<b>Percentage</b>
1	Very high over 70%	12	8%
2	High over 50%	102	68%
3	Moderate 30%	36	24%
4	Less than 30%	0	0
<b>Total</b>		<b>150</b>	<b>100%</b>

The field research findings reveals that 68% of the respondents were of the opinion that the adoption and application of e-commerce in contract transactions in Dar es Salaam is at the high rate of 50% percent. It was apparent to the researcher that most if not all the respondents working in e-commerce related portfolio and students in the higher learning institutions were pro-electronic commerce. On the contrary the low cadres were of the opinion that the rate of adoption and application of e-commerce is moderate or low depending on the conditions prevailing in their locality and their socio-economic set ups.

When the pro electronic respondents were asked the reasons that prompted them to adopt and apply e-commerce in their contract transactions they emphatically responded that e-commerce is efficient, cheap, convenient, secure, affordable, time saving, faster and most importantly ubiquitous. One respondent who preferred anonymity observed that through e-contracts vide e-commerce he may press for an order of a motor vehicle from Japan on click of a mouse, successfully make e-

payments via instant communication like the Internet and have delivery of the motor vehicle hardly after a week. It is pertinent to note that salient features of e-commerce mentioned earlier by pro electronic commerce respondents of efficiency, convenience, and affordability...were regarded by the respondents as an ideal scheme of bailing Tanzania out of technological and economic backwardness.

### **3.2.3 Extent to which Laws of Tanzania Accommodate E-commerce in Contract transactions**

A total of 95 out of 150 respondents equivalent to 63.3% opined that the laws of Tanzania are stumbling blocks to the blossoming of electronic commerce in contract transactions as they are silent on digital signatures, electronic contracts and other electronic online transactions. They were of the view that most of activities like paying for the utilities TV decoder, mobile telephone credits, water bills, electricity charges, school fees, central admission system for university undergraduate enrolment managed by the TCU and mobile money transfer are effected vide electronic means.

However, the law is yet to keep pace with such developments of ICT. As question number 12 of the appended questionnaire<sup>128</sup> sample demands, the respondents mentioned some of the laws and suggested some changes (amendments) each of them to accommodate electronic commerce. Such responses and concerns aired by the respondents can be summarized in the table 3.2.

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<sup>128</sup> Kindly see appendix A at the end of this dissertation for further clarification.

**Table 3.2: Responses and Concerns Aired By the Respondents**

Name of the Law	Cap.	Suggested change(s)
Law of Contract Act	345	To expressly allow e-contract and digital signatures
Sale of Goods Act	214	s. 5 on formalities of a contract of sale of goods to expressly allow online sale of goods
The Companies Act and Executive Agencies Act	212	Presentation of articles and memorandum of association and certificate of incorporation to be made electronically
Capital Markets and Securities Act	79	s.129 to expressly allow IPO and advertisements for public offer of securities to be done by electronic means
Arbitration Act	15	To expressly provide for notice of arbitration, statement of claim and defense to be issued via the Internet, radio conference or teleconference in international arbitration
Banking and Financial Institutions Act	Act No. 5 of 2006	To expressly provide for the procedure and extent of liability of mobile phone service providers or operators in mobile money transfer. Also to expressly allow cheque transactions between the collecting bank and the paying bank in electronic funds transfer.

**Source:** From field work

### **3.2.4 Doubts of the Respondents as to the Application of E-commerce in Contract transactions**

The first doubt leveled by the respondents was that Tanzania legal regime does not provide supporting environment for the flourish of e-commerce in contract transactions as the laws are silent on the same. Mr. *Humay* a law student at UDSM was of the opinion that silence of Tanzania legal regime on electronic commerce in contract transactions leaves e-commerce consumers in Tanzania unprotected in the event of damage to the goods purchased electronically from abroad vide e-contract.

The other doubt leveled by skeptical respondents was lack of electricity in most parts of Tanzania. They opined that even assuming most of the households are electrified still there are frequent power rationing and cut-offs due to either technical faults or fluctuations in the volume of water in HEP generation stations and miscellaneous mishaps. All these are burden to electronic commerce as electronic appliances like computers, laptops and even mobile phones cannot function in the absence of electricity. It is with this reason in mind that 55 of 150 respondents (which is equivalent to 36.7%) were of a settled opinion that electronic commerce is not an ideal scheme of bailing Tanzania out of technological and economic backwardness.

Other problems hindering the adoption and application of electronic commerce in contract transactions in Tanzania as reflected from the field were said to be illiteracy among the Tanzanians as Tanzania has a literacy rate of 71% only; the looming rampant poverty among the Tanzanians that render them incapable to access appliances; lack of technical know-how of IT for the majority of the Tanzanians;

traditional conservatism of the new technology by some people; and poor government in inculcating the young generation of ICT. One respondent appraised the election manifesto of the incumbent Kenyan President H. E. *Uhuru Kenyatta* who promised and funded a free laptop for each Kenyan Primary school pupil. That respondent averred that such has never been the case in Tanzania. He further opined that Tanzania has to emulate from Kenya as the best practice to lay a solid foundation for development of ICT to the new generation.

It is pertinent to note that respondents and other credible media outlets deliberated on the cyber related threats that may taint electronic commerce in contract transactions in Tanzania as follows: electronic fraud, hacking, malicious insiders, card skimming, electronic files manipulation, IT control circumvention, unauthorized penetration and violation of privacy.<sup>129</sup>

### **3.3 Conclusion**

It is pertinent to note each stratum of 50 respondents gave responses peculiar to their own station of life, literacy rate, extent of access to ICT and exposure to the globalised world. For example, those who belong to the upper class were strongly in favour of adoption and application of electronic commerce in their contract transactions. They are the ones who opined that the adoption and application of electronic commerce in their contractual transactions is at a higher or very higher rate. On the other hand those of the lower cadre were against the adoption and use of electronic commerce on their contract transactions. They mostly recommended that

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<sup>129</sup> Kindly refer to the appendix “C” at the end of this dissertation. Also see The Guardian, (2013, April, 25<sup>th</sup>) “Government to set up a Board to Supervise Cyber Activity” at pp. 1, 2.

the application of electronic commerce in their contract transactions is moderate or average of 30%. It may rightly be argued that the researcher had ample information reflecting people of all walks of life in the society. More importantly the use of structured questionnaire with the same set of questions being administered to each and every respondent enabled the researcher to make an in depth analysis of the responses collected from the subjects in the field.

## **CHAPTER FOUR**

### **4.0 CONCLUSION AND RECOMMENDATIONS**

#### **4.1 Introduction**

Having analyzed the field research findings, the researcher must have arrived to a conclusion basing on the analyzed facts, concepts, practices and laws. It is on that premise a researcher may draw a conclusion and make some recommendations on what should be done by the authorities charged with the responsibility of overseeing electronic commerce, by the government and the general public at large.

#### **4.2 General Conclusion**

The Tanzanians, particularly the residents of Dar es Salaam City, do, to a great extent, support the adoption and application of electronic commerce in the daily contract transactions. However, it has been noted that they do that cautiously and in the specified transactions like in electronic contracts for motor vehicle importation and in purchase transactions of utilities mainly through mobile cellular phones. It was also noted that 63.3% of the respondents were confident that the adoption and application of electronic commerce in contract transactions is an ideal scheme of bailing Tanzania out of technological and economic backwardness. They appraised electronic commerce in contract transactions for being efficient, secure, time saving, faster, cheaper, affordable, user-friendly and more importantly ubiquitous. It was also noted that electronic commerce actors apply e-commerce in contract transactions cautiously as it is not adequately regulated under the Tanzania legal regime. Still there are lacunae under the law cyber-related threats that dictate Tanzania to do more to plug the loopholes.



### 4.3 Recommendations

Having observed and examined different concepts, laws, practices and facts the researcher hereby recommends as follows:

That Tanzania ratifies the United Nations Convention on the Use of Electronic Communications in International Contracts, 2005, domesticates it as soon as practicable so as to give Tanzanians legal protection to the electronic contracts that can be concluded at anytime and anywhere (ubiquity) in one-on one-off transactions to ensure economic development and poverty eradication.

That, laws dealing with electronic contracts, sale of goods, taxation, company and business registration, capital markets and securities, banking and financial institutions and international commercial arbitration should be amended to provide a fertile and prolific ground for development of electronic commerce on contract transactions. Such laws are in urgent need of reform in order to keep pace with the developments of ICT that did not spare Tanzania. Such developments make the application of electronic commerce in contract transactions inevitable.

Training, registration and regulation of IT personnel, computer engineers, programmers, software developers and computer systems administrators coupled with the establishment of their code of conduct. Compulsory ICT education should be part of Secondary education in order to inculcate ICT values, knowledge, experiences and understanding to the young generation as future IT experts.<sup>130</sup> This

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<sup>130</sup> Kindly refer to appendix “E” at the end of this dissertation that: Hon. Pinda, The Prime Minister for the United Republic of Tanzania has launched electronic books project for secondary school students in order to boost ICT know-how to the young generation.

should be done alongside with supply by the government of electronic gadgets like laptops to pupils and students. The government may wish to work in collaboration with the vibrant private sector through public-private-partnerships (PPP) arrangement to facilitate this in time and more effectively.

In order to fast-track the application of ICT and electronic commerce in contract transactions, Tanzania government needs to embark upon electrification of rural areas at a reasonable cost. It is a strong conviction of the researcher that electrification of most parts of Tanzania will become a reality soon. This follows recent discoveries of huge natural gas reserves worth 42 trillion cubic feet at Mtwara where government would siphon the same through natural gas pipeline to Kinyerezi, Dar es Salaam for generation of electricity at national level and further for export to the neighboring countries. Also foreign assistance will solve electricity shortage in the country.<sup>131</sup> This will enable rural residents who form about 80% of Tanzania's population to have unhindered access and use of ICT and electronic commerce in their daily contractual transactions.<sup>132</sup>

A strong administrative and legal regulatory framework for regulation of electronic commerce in contract transactions under TCRA must be put in place. Furthermore, TCRA must work hand in hand with Fair Competition Commission (FCC) and the

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<sup>131</sup> The Guardian, 2013, July, 2<sup>nd</sup>, "US Strive to Light up to 20 Million Households". This was a promise by the United States visiting President to Tanzania H. E. Barrack Obama on 2<sup>nd</sup> July, 2013 at US owned Symbion power plant at Ubungu, Dar es Salaam.

<sup>132</sup> For instance in the government budget 2013/2014, the government would charge Tshs 50/- per liter of fuel for the motor vehicle owners to contribute toward the cost of rural electrification efforts by Rural Energy Agency (REA). REA is a government owned agency for rural electrification in Tanzania.

Fair Competition Tribunal to ensure there is sufficient consumer protection in electronic commerce in contract transactions.<sup>133</sup> Similarly the Fair Competition Tribunal should prosecute the foul actors in electronic commerce and give harsh punishments to secure deterrence.<sup>134</sup> This will bring about compliance in electronic commerce transactions devoid of fraud, hacking, data manipulation and infringement of privacy.

Recognition of electronic and digital signatures in online dealings under both the Law of Contract Act and Sale of Goods Act should be well reflected under these legislative pronouncements or Acts.

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<sup>133</sup> Daily News, (2013, April, 25<sup>th</sup>), "Comprehensive ICT Law in a Pipeline" at pp. 1, 3. Kindly also refer to appendix "C" for further details.

<sup>134</sup> Kindly refer to The-Guardian, (2013, April, 25<sup>th</sup>) "Government to Set up a Board to Supervise Cyber Activity". At pp. 1, 2.

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## APPENDICES

Appendix 'A' Sample Questionnaire for the upper and middle class respondents  
(English version)

### QUESTIONNAIRE ON THE ATTITUDE TOWARDS ELECTRONIC COMMERCE IN CONTRACT TRANSACTIONS IN TANZANIA LAW AND PRACTICE: A Case Study of Dar es Salaam

#### Introduction

A. My name is Gerald S. Msovela, a candidate pursuing Master of Laws in Information Technology and Telecommunications Law (LLM in IT and T Law) at the Open University of Tanzania. I am required to conduct field research as a partial fulfillment of the requirements for the award of the Degree of the Master of Laws in Information Technology and Telecommunications Law of the Open University of Tanzania. My research topic is titled "*Attitude towards Electronic Commerce in Contract Transactions in Tanzania Law and Practice: A Case Study of Dar es Salaam City*". My research is *inter alia* premised to examine the perceptions of Tanzanians toward electronic commerce and whether the adoption and application of electronic commerce in Contract transactions in Tanzania is an ideal scheme of bailing Tanzania out of technological and economic backwardness.

B. Kindly fill in the questionnaire. Feel free to omit any question that you may find offensive. Please feel also free to make additional comments that may assist me in my research. Let me take this opportunity to thank you in advance for your cooperation.



1. What is the rate of adoption and application of electronic commerce in your contractual transactions? ( Mark tick in the appropriate box)

a) Very high/ over 70% [ ]

b) High/over 50% [ ]

c) Moderate 30% [ ]

d) Low/less than 30% [ ]

e) Not at all/nil [ ]

2. If the rate is high or very high what reasons do think have accelerated the application of electronic commerce in your undertakings/business? (Please mark tick in the appropriate box)

a) Efficiency [ ]

b) Cheapness [ ]

c) Convenience [ ]

d) Affordability [ ]

e) Any other reason (s) [if any], please state briefly-----

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3. Is the adoption and use of electronic commerce in contractual transactions at Tanzania at a low pace? (Please mark tick in the appropriate box)

a) YES [ ]

b) NO [ ]

4. If your answer to 3 above is emphatically “YES” what factors do you consider to have decelerated the adoption and application of electronic commerce in contractual transactions in Tanzania? Fill in the blank paces below

a) -----

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b) -----

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c) -----

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d) -----

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e) -----  
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5. Do you think the adoption and application of e-commerce is an ideal scheme of bailing Tanzania out of technological and economic backwardness.  
(Tick in the appropriate box)

a) YES [ ]

b) NO [ ]

6. If your response to 5 above is “YES”, how? (Please state your responses in the blank spaces below)

a) -----  
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b) -----  
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c) -----  
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d) -----  
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e) -----  
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7. Likewise if your response to 5 above is emphatically “NO”, Please express your doubts that adoption and application of e-commerce is not an ideal scheme of bailing Tanzania out Of technological and economic backwardness. (Please feel free to state your doubts in the blank spaces below)

a) -----  
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b) -----  
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c) -----  
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d) -----  
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8. As per your opinion, is information and communication technology well regulated under the Tanzania legal regime? ( Please tick in the appropriate box)

a) YES [     ]

b) NO [     ]

9. If your answer to 8 above is “YES” what are the cyber-related threats in the area of e-commerce in contractual transactions that Tanzania is facing?

a) -----  
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b) -----  
-----  
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c) -----  
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10. Do the laws of Tanzania create conducive environment for the flourishing of e-commerce? (Please tick in the appropriate box)

- a) YES [    ]
- b) NO [    ]

11. If your response to 10 above is emphatically “NO” to what extent do the laws of Tanzania accelerate and pacify e-commerce in Tanzania? (Please state the adequacy of the laws of Tanzania in pacifying Electronic commerce)

- a) -----  
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- b) -----  
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- c) -----  
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- d) -----  
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- e) -----  
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Name of Law	Number	Suggested Change	Reasoning for suggestion

Attitudinal questions	Responses						
<b>A: easily to purchase</b>	<b>Strong disagree</b>	<b>disagree</b>	<b>neutral</b>	<b>Agree</b>	<b>Strong agree</b>	<b>Not applicable</b>	<b>Don't know</b>
1. Buying through e-commerce is cheaper compared to buying through dealers							
2. Buying through e-commerce is easy and time saving because one can simply buy while at home							
3. E-commerce is said to be time saving and it enables a purchaser have more time to evaluate and select product							



Attitudinal questions	Responses						
<b>A: easily to purchase</b>	Strong disagree	disagree	neutral	Agree	Strong agree	Not applicable	Don't know
<p>4. It is difficult to confirm the reliability of the provided products and the possibility to buy a product that would not value as much as they pay for it</p> <p>5. Success of ecommerce depends not only the technology but also on the attitude of the people adopting the technology..</p> <p>6. Goods purchased from overseas can only be cleared by clearing agents</p>							
<b>B: Security to purchase</b>							
<p>1. Buying goods through e-commerce is risk because there is a possibility of the buyers credit card being intercepted</p>							
<p>2. People fear buying goods from abroad through e-commerce because there is no after sales services</p>							

Attitudinal questions	Responses						
<b>A: easily to purchase</b>	<b>Strong disagree</b>	<b>disagree</b>	<b>neutral</b>	<b>Agree</b>	<b>Strong agree</b>	<b>Not applicable</b>	<b>Don't know</b>
3. In the e-commerce when the sales is complete it is not easy to change a defective product with a new one							
4. The risk of buying through e-commerce is when one may lose money or product on transit							
5. The product guarantee in e-commerce is not assured							
6. The delivery of goods/services purchased through e-commerce is time consuming 7. Developing countries must invest in security for software intrusion detection							
<b>C: Infrastructure</b>  1. Developing countries must create technological infrastructure suitable for internet market place if they need to be successful  2. E commerce relies on fast, reliable and secure							

Attitudinal questions	Responses						
<b>A: easily to purchase</b>	<b>Strong disagree</b>	<b>disagree</b>	<b>neutral</b>	<b>Agree</b>	<b>Strong agree</b>	<b>Not applicable</b>	<b>Don't know</b>
internet connection that are available to the community at affordable price  3. Developing countries must create an infrastructure that makes electronic payment via internet possible.							

1. What do you understand the term bill of lading?

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2. How can the importer know the money paid electronically to the seller was received safely?

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3. What problems mostly commonly arise during the clearing of goods purchased Electronically

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4. How can a buyer reduce port charges and demurrage charges?

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-----  
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5. Who is responsible for damage of goods purchased electronically from abroad.-----

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**DODOSO KUHUSU TABIA JUU YA MATUMIZI YA BIAHARA YA KIELEKJRONIKI  
KATIKA MIAMALA YA MIKATABA TANZANIA :**

**SHERIA NA UTARATIBU: SOMO KUNTU KATIKA JIJI LA DAR ES SALAAM,  
TANZANIA**

**UTANGULIZI**

- A. Mimi naitwa Gerald S. Msovela, mtahiniwa wa shahada ya Uzamili katika sheria za Teknolojia ya Mawasiliano na masafa Chuo Kikuuu Huria cha Tanzania. Natakiwa kufanya tafiti na kuandika ripoti ya Tasnifu juu ya “Tabia za Watu juu ya Biashara ya Kielektroniki katika Miamala ya Mikataba, Tanzania: Sheria na utaratibu: Somo Kuntu la Jiji la Dar es Salaam. Utafiti wangu kati ya mambo mengine/mtambuka umejikita katika kuchunguza tabia za Watanzania juu ya biashara ya Kielekroniki na kama uhalisishaji na utumiaji wa biashara ya kielekroniki hapa Tanzania ni mkakati bora wa kuinusuru Tanzania katika hali duni ya kiuchumi na kiteknolojia.
- B. Tafadhali jibu dodoso hili. Jisikie huru kabisa kuacha swali ambalo utaona linakuudhi. Pia jisikie huru kutoa mapendekezo ya ziada ambayo yatanisaidia katika utafiti. Naomba nitumie fursa hii kukushukuru kwa ushirikiano wako.
1. Kuna kiasi gani cha uhasilishaji na utumiaji wa biashara ya kielektroniki katika miamala yako ya mkataba ? ( Weka vema panapostahili )
- |                                      |        |
|--------------------------------------|--------|
| a) Kiwango cha juu sana zaidi ya 70% | (    ) |
| b) Kiwango cha juu asimila 50%       | (    ) |
| c) Kawaida asilimia 30%              | (    ) |
| d) Kiwango cha chini ya 30%          | (    ) |
| e) Situmii kabisa                    | (    ) |
2. Kama kiwango kipo juu au juu sana ni sababu zipi unaamini zimeharakisha na kuchochea matumizi ya biashara ya kielektroniki katika shughuli za biashara yako/zako? (Tafadhali weka vema panapostahili)
- |                              |        |
|------------------------------|--------|
| a) Ufanisi                   | (    ) |
| (b) Bei rahisi/Gharama ndogo | (    ) |

- (c) Urahisi ( )
- (d) Gharama zinalipika ( )
- (e) Sababu nyingine (kama zipo), tafadhali elezea kwa ufupi

-----

-----

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-----

3. Je uhasilishaji na utumiaji wa biashara ya kielektroni Tanzania upo katika hatua ya chini ?

Tafadhali weka vema ( ) panapostali

- a) NDIYO ( )
- b) HAPANA ( )

4. Kama jibu lako kwa Swali la 3 hapo juu ni NDIYO, ni sababu zipi unaamini zimekwamisha au kupunguza kasi ya uhasilishaji na utumiaji wa biashara ya kielektroniki katika miamala ya mkataba hapo Tanzania ?

Tafadhali jaza kwenye nafasi wazi hapo chini.

- a) -----
- 
- b) -----
- 
- c) -----
- 
- d) -----
- 

5. Je unaamini uhasilishaji na utumiaji wa biashara ya kielektroniki ni mkakati bora wa kuitoa Tanzania katika hali duni ya uchumi na teknolojia ? (Weka vema panapostahili)

- (a) NDIYO ( )
- (b) HAPANA ( )

6. Kama jibu lako kwa swali la 5 hapo juu ni "NDIYO", Ki vipi ?

(Tafadhali jibu katika nafasi zilizoachwa wazi )

- a) -----  
-----
- b) -----  
-----
- c) -----  
-----
- d) -----  
-----
- e) -----  
-----

7. Vivyo hivyo, kama majibu yako kwa Swali la 5 hi "HAPANA" tafadhali oneshwa wasiwasi wako kuwa uhasilishaji na utumiaji wa biashara ya kielektroni siyo mkakati bora wa kuitoa Tanzania katika hali duni ya uchumi na teknolojia (Tafadhali elezea wasi wasi wako katika nafasi zilizoachwa wazi)

- a) -----  
-----
- b) -----  
-----
- c) -----  
-----
- d) -----  
-----
- e) -----  
-----

8. Kwa mtazamo wako teknolojia ya habari na mawasiliano inasimamiwa vizuri katika Sheria za Tanzania ?

(Weka vema panapostahili )

- a) NDIYO ( )  
 b) HAPANA ( )

9. Kama jibu lako kwa swali la 9 hapo juu ni "HAPANA", kuna hatari zipi kimtandao katika biashara ya kielektroniki Katika miamala ya mkataba ambazo zinaikabili Tanzania ?

(Tafadhali taja hatari za kimtandao katika nafasi zilizoachwa wazi )

- a) -----  
 -----  
 b) -----  
 -----  
 c) -----  
 -----  
 d) -----  
 -----  
 e) -----  
 -----

10. Je sheria za Tanzania zinatoa mazingira mazuri ya ukuaji wa biashara ya kielektroniki katika miamala ya mkataba ?

(Tafadhali weka vema kwenye kisanduku panapostahili )

- a) NDIYO ( )  
 b) HAPANA ( )

11. Kama mwitikio wako kwa swali la 10 hapo juu ni "NDIYO" kiasi gani sheria za Tanzania zinavutia na kuchochea biashara ya kielektroniki katika miamala ya mikataba hapa Tanzania ? (Tafadhali elezea kujitosheleza kwa sheria za Tanzania katika kukuza biashara ya kielektroniki katika nafasi zilizoachwa wazi)

- a) -----  
 -----  
 b) -----  
 -----  
 c) -----  
 -----



- d) \_\_\_\_\_  
 \_\_\_\_\_
- e) \_\_\_\_\_  
 \_\_\_\_\_

12. Kama unaamini sheria za Tanzania ni kikwazo katika ukuaji wa biashara ya kieletroniki katika miamala ya mikataba, toa mapendekezo juu ya makadiliko ambayo ungependa yafanyike kwenye sheria Tanzania ili kukidhi matakwa ya biashara ya kieletroniki. (Tafadhali taja sheria kwanza halafu pendekeza mabadiliko kwenye kila sheria ) Unaweza kuongeza karatasi za zaidi inapobidi.

Jina la Sheria	Namba	Mabadiliko yanayopendekezwa	Sababu ya Pendekezo

Maswali kuhusu Mazoea	MWITIKIO						
	Nakataa Kabisa	Nakataa	Sikubali	Nakubali	Nakubali Kabisa	Haihusiki	Sijui
<b>A. URAHISI WA KUNUNUA</b>							
1. Kununua kupitia mtandao ni rahisi kuliko kununua kupitia wachuuzi							
2. Kununua kupitia mtandao ni Rahisi na inaokoa muda kuliko Kununua ukiwa nyumbani							
3. Biashara ya kielektroni inaokoa muda na inampa mnunuzi muda mwingi wa kutathimini na kuchagua bidhaa							

Maswali kuhusu Mazoea	MWITIKIO						
<b>A. URAHISI WA KUNUNUA</b>	Nakataa kabisa	Nakataa	Sikatai pia sikubali	Nakubali	Nakubali kabisa	Haihusiki	Sijui
4. Ni vigumu kuthibitisha ubora wa bidhaa zilizounuliwa na kuna uwezekano kununua bidhaa feki							
5. Mafanikio ya biashara ya mtandao haitegemei teknolojia tu bali Mazoea ya watu kuhasilisha teknolojia							
6. Bidhaa zilizounuliwa nje ya nchi zinaweza kupekuliwa na mawakala tu.							
<b>USALAMA WA MANUNUZI</b>							
1. Kununua bidhaa kupitia mtandao ni hatari kwa sababu kadi za malipo zinaweza kuchokonolewa/kuingiliwa							
2. Watu wanaogopa kununua bidhaa kutoka Ughaibuni kupitia mtandao kwa sababu hakuna huduma baada ya mauzo kufanyika							
3. Katika biashara ya kielektroni mauzo yanapokamilika siyo rahisi kubadili bidhaa mbovu kupata bidhaa mpya							
4. hatari ya biashara ya kielektroniki ni pale unapoteza bidhaa katika mlolongo wa wa usafirishaji							
5. Hakuna kuhakikishiwa ubora wa bidhaa Katika biashara ya mtandao							
6. Kupakua na kupokea bidhaa zilizounuliwa kupitia biashara ya Kielektroniki inachkua muda wingi							
7. Nchi zinazoendelea ni lazima ziwekeze Katika usalama ili kutambua pale Mtandao unapovamiwa.							
<b>B. MIUNDOBINU</b>							
1. Nchi zinazoendelea ni lazima zijenge Miundombinu ya kiteknolojia yanayowezesha/yanayofanikisha makipo kupitia inteneti							

2. Biashara ya kielektroniki inategemea Intaneti ambayo ni ya haraka, ya Kuaminika na ambayo ni salama inayopatikana kwenye jamii kwa bei nafuu						
3. Nchi zinazoendelea zinapaswa kujenga Mazingira na miombinu stahiki ili Kuwezesha malipo kufanyika kupitia njia Za kielektroni.						

1. Unaelewa nini juu ya risiti ya usafiri wa majini ?

-----  
 -----  
 -----

2. Namna gani muagizaji wa bidhaa tajua fedha iliyolipwa kwa njia ya kielektroni au mtandao kwa muuzaji imefika salama ?

-----  
 -----  
 -----

3. Ni matatizo yapi mara nyingi hutokea katika kupakua bidhaa zilizounuliwa kwa njia ya elektroniki au mtandao ?

-----  
 -----  
 -----

4. Ni nmani gani mnunuzi anaweza kupunguza gharama za bandari na tozo za ushuru ?

-----  
 -----  
 -----

5. Ni nani anayehusika kulipia gharama ya bidhaa zilizoharibika kwa bidhaa zilizounuliwa ktoka ughaibuni kwa njia ya kielektroni au mtandao ?

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APPENDIX "C"

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# The DAILY

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## Comprehensive ICT law in pipeline

By ABDULWAKIL SAIBOKO

THE government is reviewing laws to cope with the growth of cyber crime and other computer-related offences including e-fraud and violation of privacy.

The Director of Information and Communications Technology (ICT) at the Ministry of Communications, Science and Technology, Dr Zaipuna Yonah said in Dar es Salaam yesterday

that the technical process of the laws would be ready by the end of the year.

"We are on the consultation process with various experts and we hope by the end of the year we will be through and forward the matter to relevant processes and eventually we will have laws in place," he said.

Dr Yonah was speaking during the opening of the East Africa Banking and IT Security

*Continues on Page 3*

## SPORT

### LIWALE ON S

The Police Force has officers to help restore saw 14 houses torch Region on Monday.



he said.

## Strives to boost drugs sales

Continued from Page 1

“Once the barcode is scanned the originality of the packing consignment by reading the longitude and latitude is detected,” Mr Mallik told the ‘Daily News’ at their pavilion.

Uganda’s Joint Clinical Research Centre, Chief Pharmacist Ocitti Paul Labeja said it took between six and 12 months to complete drug registration and obtained GMP certificate.

“This is time consuming,” Mr Labeja said “it also increases the cost of a drug.”

Tanzania Association of Pharmaceutical Industry (TAPI) Chairman, Mr Sinare Yusuph Sinare, said to register a drug and get GMP takes between two and three years.

In Rwanda and Kenya the whole process takes six months.

“Eby the time you get the approval the manufacturer has stopped producing the drug and pass the molecule (the formula) to other firm - its real a challenge,” Mr Sinare said.

“Phex is mandated to help over 3,800 of its members to achieve excellence in export, where 250 are exhibitors at the ongoing show.

To do so it has invited 104 countries worldwide that bring in over 500 delegates.

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To do so it has invited 104 countries worldwide that bring in over 500 delegates.

## ICT law in pipeline

Continued from Page 1

Summit 2013, held under the theme “combating the emerging threats in banking and payment transactions in East Africa.”

He said cyber crime is a critical challenge in the country and in the region, in particular adding that the government is taking measures to protect its people from the same.

“There are so many crimes being reported, but we do not have a strong cyber crime law to help the victims get legal redress,” he said.

He said there are so many challenges that have been brought by ICT as advancement of technology gives no time for offended individuals to complain as things are happening through automated devices.

“So many people are now using mobile phones almost half of the country’s population and so many transactions are being made online and yet our legal control is much limited,” he said. He added that with the country’s national ICT backbone well spread, so many challenges related to cyber were inevitable and the legal systems need to be strengthened.

He called on business operators and investors to ensure that their companies are being run responsibly.

In another development, Dr Yonah said the government was also planning

to have ICT experts certified to ensure maximum security.

He added that plans were underway and the move comes following the rapid increase of individuals purporting to be ICT experts without academic qualifications.

“We want to ensure secure businesses, investments and make sure that our people stay safe in this technological world,” he said. The Cyber Security Africa Operations and Communication Manager, Mr Luke Mulunda said Tanzania has pioneered the ICT backbone in the East African region and is now about to set the pace by introducing a cyber crime law.

“In Kenya we have ICT law but it is not focused on cyber security, I am glad that Tanzania is leading the way and other countries will follow,” he said.

The Cyber Security Africa Alliance Manager, Sammy Kioko said his company organised the meeting to bring together ICT stakeholders to learn on the risks of applying ICT and the best ways to address the challenges.

## Symbion Power Tanzania eyes investment opportunities

NEWS

er

Tanzania said

plant at Ubungo was to be seized under the High Court for failure to settle fuel bill.

In a statement issued yesterday, the CEO described

hand in hand with several fuel suppliers to ensure that the people of Tanzania continue to receive electricity supply despite the problems caused by the shortage

indicated that Symbion Power Tanzania owed oil marketing company Mogas over US 9 million dollars (approximately 14.4bn).





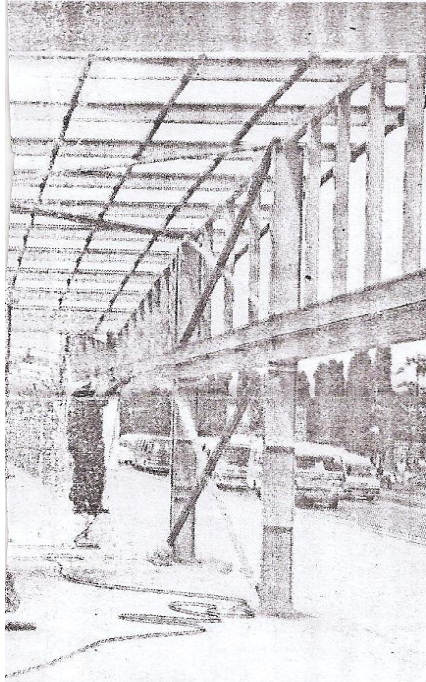
## APPENDIX "E"

**kuuza eneo**

Mwenyekiti wa kijiji hicho, Wilson Lozava alikiri kuwapo tofauti baina yake na wananchi hao.

Alisema ujenzi wa shule katika eneo hilo ni sehemu ya makubaliano ya Halmashauri na Kijiji kuwa pajengwe shule ya watoto yatima.

Alisema anashangaa kuona wenzake wakimgeuka na kudai kuwa anataka kuliiza eneo hilo bila ridhaa yao kitu ambacho alisema si kweli.



a ya mabasi ya mwendo kasi wakipaka Picha na Jumanne Juma.

**aja la Maligisu**

upya la siasa. Daraja la Maligisu taraja linaloendeela kujengwa halina athari yoyote kwa watumiaji arisha hiyo madiwani wanapaswa jari. kuwaelimisha wananchi juu ya hao suala hilo badala ya kuwapotosha."

**Pinda azindua mradi vitabu vya elektroniki**

**Na Mwandishi Maluumu Arusha**

WAZIRI MKUU Mizengo Pinda amezindua mradi maalum wa vitabu vya elektroniki vya masomo mbalimbali wenye thamani ya Sh milioni 100 unaolenga kupunguza tatizo la ukosefu wa vitabu shuleni na kuboresha elimu.

Akizungumza na mamia ya wakazi wa Vijiji vya Nganana na Nambala wilayani Arumeru mwishoni mwa wiki, Waziri Mkuu alihimiza utunzaji wa vitabu hivyo.

"Nimeambiwa kuwa vifaa hivi vina uwezo wa kubeba vitabu 2,000 kila kimoja, na hivyo kutumika kama 'maktaba za mkononi za vitabu-elektroniki'.

"Hapa mmepata vifaa vya vitabu-elektroniki 300 na kila kimoja kimewekewa vitabu 100 ndani yake. Sasa ni wapi hapa nchini unaweza kukuta shule au taasisi ambayo inamwezesha kila mwanafunzi kuwa na vitabu 100 yeye peke yake," alihoji Waziri Mkuu.

Waziri Mkuu alisema mradi huo utawasaidia watoto wa shule za msingi za Nganana na Nambala kuongeza ujuzi na kukuza upeo wao wa kuelewa mambo.

Alimshukuru Mkurugenzi wa Taasisi wa World Reader ya Marekani, David Risher kwa kuendesha harambaee huko kwao iliyochangia kupatikana kwa vitabu-elektroniki 200 vya ziada na kuiwezesha Taasisi ya Nelson Mandela kupata vifaa 300 wakati uwezo wao ulikuwa ni kununua vifaa 100 tu. Pia aliushukuru uongozi wa Taasisi ya Nelson Mandela kuwa kubuni mradi huo.





# Serikali kutunga sheria kudhibiti uhalifu mtandaoni

**Iratienga pia kudhibiti tatizo la watu kufuatilia mawasiliano binafsi ya simu za watu wengine.**

Mwenzidishi Wetu, Mwananchi

Dar es Salaam, Serikali ina tarajia kuwasilisha bungeni, muswada wa sheria itakayodhibiti na kulinda taarifa za watu binafsi wanapowasiliana kwa simu za mkononi na kwenye intaneti.

Akiitangaza mkutano wa mwaka wa benki na wadau wa kipambana na uhalifu kwa kutumia mitandao, Mkurugenzi wa Teknolojia wa Wizara ya Mawasiliano, Sayansi na Teknolojia, Dk Zaiduna Yonah, alisema kuwapo kwa sheria hiyo koteendelea kuzitia watu kuhitailia mawasiliano binafsi katika mitandao ya simu na hata mawasiliano ya njia



**Meneja Usalama wa Mawasiliano wa Kampuni ya PricewaterhouseCoopers Tanzania (PwC) Kanda ya Afrika, Edwin Moini, akizungunza namna ya kudhibiti uhalifu kwa njia ya mitandao wakati wa semina iliyoafanyika Dar es Salaam jana. Picha na Salim Shao**

ya barua pepe. Hivi karibuni kumekunwa na mahtuko kadhaa ya watu kuweka hadharani na hata kuchapisha mawasiliano ya watu katika magazeti na mitandao ya kijamii, kitemo ambacho kinelalimkiwa. Miswada inayoandaliwa ni pamoja na sheria ya

fanya uhalifu kwa kutumia kompyuta. Yonah alisema wanataka kuona sheria hizo zikipitishwa katika kipindi cha mwaka mmoja. "Wapendekezo haya, hata hivyo, yana changamoto zake kwa kuwa sheria hizo zinahitaji na utendaji wa vyombo vya habari. "Kuna tatizo kwa kuwa unavyotaka kuzitia habari, vyombo vya habari hayo vinateka habari," aliongeza. Alisema mbali na kipeendeleo kuwapo kwa sheria zilizakozitibu hadi ma ya mitandao, nchini, Serikali pia inatarajia kumda chombo kitakachokuwa wakati asilima 60 wanamili iki simu za mkononi hivyo yanahitaji marekebisho ya haraka katika kudhibiti uhamishaji hotele wa fedha kwa njia ya mitandao.

## Lugola atumia picha kudai maji bungeni

Inatoka UCI

rufiki yangu, Filikantoniombe (DGeo) nikakuria hakuma

ionba Bunge kudhimisha Sh398.39 bilioni kati yake

**advans**  
BANK TANZANIA

**ADVANS AKIBA YAKO!**



## en Dar fair

PHER MAJALIWA

International Trade  
be officially launched this  
swati II of Swaziland.  
is in the country for  
Dialogue that has also  
other heads of state and  
participants will also  
visit various pavilions  
before jetting off.  
yesterday, Tanzania  
authority (TANTRADE)  
ral Ms Jacqueline  
opening day was re-  
not that King Mswati II

announced that official  
on June 4 this year.  
ral public to attend  
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ted more international  
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nt. I would like to in-  
as this rare spectacle.  
nd, advised heads of  
to bring their

Continues on Page 3

APPENDIX "G"

# 'Phone transactions will not suffocate banks'

By FINNIGAN WA SIMBEYE

AN estimated 18 million adults in the country use mobile phones to send or receive money but Bank of Tanzania Governor, Prof. Benno Ndulu has allayed fears that mobile money will render banks irrelevant in future.

Addressing delegates to 2013 Global Smart Partnership Dialogue being held in Dar es Salaam on Saturday evening, Professor Ndulu said mobile money is helping the majority rural people who have no access to banks to get banking services.

"Mobile phones have dramatically increased accounts from zero mobile money accounts five years ago to 28 million," Prof. Ndulu said while stressing that commercial banks are now partnering with mobile phone service companies to take their services to rural masses.

"Mobile phone money is transforming Africa because the spread is happening faster," he noted saying local banks such as CRDB Plc and National Microfinance Bank are already using mobile phone companies

as branches where their clients can deposit and withdraw money.

Only between 12 and 15 per cent of the country's 44 million people have access to banking services which are mostly restricted to urban areas.

The central bank chief however warned that while mobile phone money service is becoming popular, governments in East Africa should refrain from imposing unnecessary taxes on the service.

"Let's not start milking the cow before it has grown up fully," Prof. Ndulu warned as lawmakers in the just ended budget session shot down an attempt by Finance Minister, Dr William Mgemwa to introduce new taxes on mobile phone money transfer services.

Former Bank of Zambia Governor, Dr Caleb Fundanga, said mobile phones should help to mobilize savings from the majority of the people to nurture a saving culture in African countries. Dr Fundanga said governments should include financial inclusion in their National Development

Visions.

He challenged governments and local scientists to develop software that will be used by mobile money transfer services because currently it is costing consumers very high by using foreign developed software.

"If we develop local software for the transactions then we will reduce the cost of the service," noted Fundanga who touted financial inclusion through mobile money services.

Zimbabwe's Deputy Prime Minister, Prof. Arthur Mutambala, said that mobile phone money services have transformed Africa hence testifying that foreign technologies are being utilized for development on the continent.

"Mobile phone money has shown that even the most advanced technologies are relevant in Africa," Prof. Mutambala noted.

Participants to the event, which officially ends in Dar es Salaam today, said there is need for governments to employ technology to ensure that the majority of the people who are rural based get access to financial services.

BUY & SELL EVERYTHING  
WITH TIGO PESA!





APPENDIX "H"

# sive care unit'

## Govt to set up board to supervise cyber activity

By Correspondent  
David Kisanga



...naini village in Dodoma on Tuesday during a short ceremony at which various items were handed

THE government is planning to set up a board that will be charged with overseeing cyber security professionals in a move to monitor and regulate cyber activities.

The board will work closely with the Ministry of Communication, Science and Technology in seeing that cyber businesses are conducted by qualified people.

Addressing participants and IT experts from various countries at the East Africa Banking and IT security summit held yesterday in Dar es Salaam, consulting engineer and director of ICTs in the ministry Dr Zaipuna Yohan established that the aim is to nab and stop illegal cyber users who misuse the technology.

According to Dr Yohan, the board will also have its laws and regulations and offer a course to train them. He cited an example of the Nation Board of Accountants (NBA) which approves accountants and then offers them with recognition certificates.

"This will be an examining body for cyber professional qualifications and also collaborate with the authorised training institutes which will be under the ministry," detailed Dr Yohan.

Dr Yohan revealed that the government expects that by forming the board, there will be less cyber cases from banks, loss of private information and other issues related to cyber crimes.

Continued on Page 2

development vision | Situation not as presented



SPF and report a week's time. **President's Office** Service Management, the government paid 72.351bn/- will be paid depending on the budget allocation.

### Govt to set up board to oversee cyber activities

From Page 1

"For a long time now high-tech crimes, including cyber-based terrorism, espionage, computer intrusions, and major cyber frauds have prevailed in our country, therefore having a board that would certify and ensure expertise in this field will help prevent online hacking," he said.

It would provide security guarantee for the individual and government, through standard security training to curb cyber crime.

In a quick rejoinder, Dr Yohan expressed concern over inadequate auditing in website and web applications, saying it is a problem that many web developers are facing.

"Perhaps it is lack of standards security auditing that challenges many website holders to be hacked but we will ensure the activities of the faceless criminals are brought under control," he asserted.

Dr Yohan said many websites and web applications

are vulnerable to security threats including the government's - and non-government websites.

Cyber Security Manager for Africa zone Sammy Kioko, underlined the need for the country to form a board that will watch and monitor IT experts.

"The need for more effective information security practices is increasingly evident with each security breach reported," Kioko said.

He called upon organizations to consider the value of ethical hacking services which are rapidly gaining attention as an essential security practice that should be performed on a regular basis.

According to Kioko, threats like hacking, malicious insiders, card skimming, electronic files manipulation, IT control circumvention, unauthorized penetration and careless employees have surged as new IT infrastructure and banking systems intended for cost-efficiency increase.

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### Muhas to hold first international scientific conference

By Gadosa Lamtey

THE Muhimbili University of Health and Allied Sciences (Muhas) will hold its first three day international scientific conference beginning May 2, with the aim of exchanging research

papers whereas the findings will be translated into policy and practice.

Prof Kaaya said the findings will also be linked with addressing health related Millennium Development Goals, emerging major health challenges and crises on health human resources.

"The main purpose of the