Chapter 5
E-Documents and E-Signatures in Tanzania: Their Role, Status, and the Future

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ABSTRACT

This chapter analyses the use of e-Documents and e-Signatures in Tanzania with a view of establishing their legal status, applicability, and the future of such technologies in e-Government systems. That is important as Information and Communications Technology (ICT) is widely employed in Tanzania. Moreover, the development and application of information systems is influenced by law. Therefore, the problem investigated is twofold: First, legal status, validity, and admissibility of e-Documents and e-Signatures in evidence in Tanzania are questioned. Second, the challenges facing the establishment of e-Government in Tanzania are explored. The chapter is a qualitative study, i.e. library- and desk-based research. Various literatures focusing on e-Documents and e-Signatures are reviewed, analysed, and evaluated so as to draw a conclusion on the relevancy of e-Documents and e-Signatures in the e-Government projects in Tanzania. The literature analysis conducted found that there is a lack of legal framework to recognize e-Documents and e-Signatures compounded with poor ICT infrastructure in Tanzania. This scenario puts e-Government endeavours at risk. It is recommended that the government should enact the laws to recognise e-Documents and e-Signatures to boost e-Commerce as well as e-Government.

INTRODUCTION

The development of Information and Communications Technologies (ICTs) for e-Commerce, e-Government, e-Justice, e-Procurements, etc. in Tanzania like other countries is generally enabled by law. This is true for two reasons: first, the design and realization of information systems must observe statutory law and case law. That means the law is a framework for information systems (Schartum, 2010). Any information system that is contrary to the law is likely to be illegal. Second, any government scheme, including e-Government projects, must be supported by the law (Schartum,

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2010). This chapter explores the legal status of e-Documents and e-Signature in Tanzania. Since transactions in the online world revolve around trust and reliability, establishing legal recognition of e-Document and e-Signature is necessary. The central questions therefore are: How reliable is e-Document? How can the identity of parties be established? Is e-Document and e-Signature admissible in evidence? (Sjöberg, 2005a, 2005b; Mambi, 2010). Although, e-Signature may technically be used to achieve information security, it does not mean that the law recognises it (Norden, 2005).

In investigating the central problem of the chapter, a qualitative approach involving library and desk based research method was adopted. In this context, various literatures focusing on e-Documents and e-Signatures in Tanzania were reviewed, analysed, and evaluated so as to draw on a conclusion on the relevancy of e-Documents and e-Signatures in the e-Government projects in Tanzania. Moreover, in attempting to evaluate the status of adoption of e-Documents and e-Signatures, a comparison was made between Tanzania and its neighbouring countries, together with developed countries as well. The methodology therefore proved to be worthwhile as several lessons were observed in particular on legal recognition of e-Documents and e-Signaturesand its usefulness to overall e-Government development.

The chapter is organized as follows: first background of ICT application and its relation with e-Documents and e-Signatures in Tanzania is provided. The second part explores the legal status of e-Documents and e-Signatures. The third part focuses on changing the legal landscape. Under this section recommendations are offered on what the legal system should do to recognize e-Documents and e-Signatures. The final part highlights some areas for future studies.

BACKGROUND

Generally, the development of ICT systems for e-Commerce and e-Government, depend on legal validity of the e-Document and e-Signature (Schartum, 2010; Sjöberg, 2005b). The legal validity of e-Documents and **e-Signatures** in Tanzania is linked with the emergence of commercial banking and liberalisation of the telecommunications sector. The sections below provide a short history of ICT application including e-Documents, e-Signatures, e-Government, and e-Commerce and their related laws in Tanzania. In addition, the chapter blends the views of other scholars to support or refute the assumptions put forward while simultaneously demonstrating author's own position on the topic.

ICT Applications and Their Relation with e-Signature and e-Documents in Tanzania

The development and use of e-Documents and e-Signatures in Tanzania can be traced from the history of ICT application in Tanzania. Notably, the Tanzanian government received the first computer in 1965. That computer was installed at the Ministry of Finance in Dar es Salaam (Mgaya, 1994). During early 1970s Tanzania sought to computerise government accounting systems. However, the project collapsed in 1974 (Mgaya, 1994; Dinar, 1994). The project failed because the software was not updated, the hardware was equally obsolete. In addition, there were no sufficient computer literate personnel. On top of that there was neither any ICT policy nor legislation in place (Dinar, 1994). The whole project was ambitious endeavour without concrete framework to guarantee its sustainability. Following the failure of that project the government banned importation of computers and related equipments in the country under Government Notice (GN) 142 of 1974 (Mgaya, 1994; Dinar, 1994). Due to scepticism against ICT the government established an