



**Anti
Corruption
Coalition
Uganda**

ASSESSMENT

**of the Status of Implementation of the
Access to Information Act 2005 & the Access to
Information Regulations 2011**

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List of Acronyms	
ACCU	Anti-Corruption Coalition Uganda
ACHPR	African Charter on Human and Peoples Rights
ACHPR	African Commission on Human and Peoples Rights
ACME	African Centre for Media Excellency
AFIC	Africa Freedom of Information Centre
AU	African Union
AUCPCC Corruption	African Union Convention on Preventing and Combat- ing
CPI	Corruption Perception Index
DEI	Directorate of Ethics and Integrity
DPP	Directorate of Public Prosecutions
EIA	Environmental and Social Impact Assessments
FY	Financial Year
GCIC	Government Citizen's Interaction Center
GOU	Government of Uganda
HIM	Hub for Investigative Media
HRNJ	Human Rights Network for Journalists -Uganda
HRW	Human Rights Watch
ICCPR	International Covenant on Civil Political Rights
ICT	Information Communication and Technology
IG	Inspectorate of Government
IGG	Inspector General of Government
IGG	Inspector General of Government
MDAs	Ministries Department and Agencies
MoICT & NG	Ministry of ICT and National Guidance
MoJCA	Ministry of Justice and Constitutional Affairs
MLHUD	Ministry of Lands Housing and Urban Development
MoLG	Ministry of Local Government
NEMA	National Environment Management Authority



NFA	National Forest Authority
NITA-U	National Information Technology Authority of Uganda
OAG	Office of the Auditor General
PPA	Power Production Agreement
PSA	Production Sharing Agreement
PWDs	Persons with Disabilities
TI	Transparency International
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNESCO	United Nations Educational, Scientific and Cultural Organisation



EXECUTIVE SUMMARY

A study undertaken by the Human Rights Watch (HRW) in 2013 found that corruption in Uganda is perpetrated on a grand scale. The study further highlighted that corruption in the country is both systematic and systemic, and that it involves the top echelon of the ruling regime and those closely connected to it. The high levels of corruption in the country are notwithstanding the existence of various laws and institutions. Although these criminalize acts of corruption and provide the framework necessary for the investigation and prosecution of corruption, they have been rendered ineffective in the face of grand corruption that is often perpetrated by high-ranking officials and those closely connected to them.

The right of access to information, if well enforced, can help bolster current stalled anti-corruption initiatives, as access to information promotes transparency and engenders efficiency in government.

Uganda is one of the few countries that protect the right to access information in its national constitution. More still, in 2005, Uganda became the fourth African country to enact a dedicated access to information law. However, enactment of laws and their implementation are two different things altogether. Secondly, whereas access to information laws constitute an additional tool in the fight against corruption, they can only be relied upon to fight the vice if properly implemented.

It is against this background that the Anti-Corruption Coalition of Uganda (ACCU) commissioned a study to assess the status of Implementation of the Access to Information Act, 2015 and the Access to Information Regulations passed in 2011 to operationalize the Act. The study was also meant to evaluate the barriers to access to information, and subsequently propose appropriate recommendations. The assessment was largely qualitative, and the status of implementation was measured using yardsticks developed based on the substantive elements of the right to access information, individual and institutional mandates, and the broad purpose of the law i.e., to promote an efficient, effective, transparent, and accountable government through enhancing citizens' access to information.

It is a fundamental finding of this study that despite Uganda being one of the very first African countries to enact a dedicated access to information law in 2005, its implementation remains poor and, has in many cases been extremely sluggish. The ability of citizens to access information in the possession of the



state and its organs remains severely limited, largely because of unjustified denials of information requests based on technicalities and the generally low functionality of the office of the information officer under the law. Secondly, none of the MDAs studied is fully compliant with their obligations under the law, one of which is the requirement to compile a manual of functions and index of records.

Of even greater concern, is that none of the evaluated Ministries has presented to Parliament an annual report or Ministerial Statement detailing the number of requests for access to information made to them as required under the law. Besides, the Access to Information Act 2005 is itself quite problematic, to the extent that it imposes unjustifiable restrictions on citizens' exercise and enjoyment of the right to access information in possession of the state.

The law contains an unjustifiably wide and broad exemptions regime, does not sufficiently clarify on the functioning of the internal appeals mechanism, and omits to provide for establishment of a dedicated agency responsible for promotion of the law and monitoring of its implementation as is the case with other countries with similar laws.

This study therefore makes a number of recommendations to various players and stakeholders to improve citizen access to information in Uganda, these include:

- Alignment of the Access to Information Act, 2005 with the Government of Uganda Communications Strategy
- Ministerial compliance with their obligation to present annual reports to Parliament giving details of information requests made to all public bodies in their various ministries.
- Repeal all restrictive laws that seek to unjustifiably limit the citizens' exercise and enjoyment of the right to access information in possession of public bodies.
- Consider amendments to the Access to Information Act 2005 to reduce on the current broad scope of exemptions in the law.
- Provide more funding towards the implementation of the Access to Information Act and Regulations made thereunder.
- Issuance of strict timelines to MDAs yet to develop a Manual of Functions and Index of Records



- Dedicate more efforts towards the creation of public awareness on citizens' right to access information in possession of public bodies.

1.0 Introduction and Context.

Uganda is persistently ranked among the topmost corrupt countries in the World. According to the latest Transparency International Global Corruption Perception Index (CPI), Uganda ranked no. 142 out of 180 on the scale of the least to the most corrupt countries in the World. Going by this ranking, Uganda is the thirty eighth (38th) and the nineteenth (19th) most corrupt country globally and in Africa respectively.¹ Even then, the latest CPI shows that the country's score has dropped by one point i.e., from 27/100 in 2021 to 26/100 in 2022.² However all this is not surprising given the country's socio- political history which shows that right from the start, the nation state was an artificial creation of the British colonial government. Post-independence, the state became even more fragile and has required to be sustained through corruption and patronage.³ For this reason, it has been observed that corruption is the glue that holds the current state together, and that without it, the state may collapse.⁴ This is partly the reason why there is little to no political will to fight corruption.

Corruption in Uganda is therefore grand, endemic, systemic, and systematic.⁵ This can have several devastating challenges for the country and its citizens. Corruption leads to wastage of public resources, creates economic inefficiencies by widening the gap between the rich and the poor, distorts the economy, undermines the full enjoyment of human rights and freedoms, increases state criminality, and breeds public discontent which is a recipe for conflict.⁶

Uganda has taken various steps to combat corruption. In the late 1980's Uganda became one of the first African countries to establish a dedicated institution to combat corruption i.e., the Inspector General of Government (IGG).⁷

¹ See Corruption Perceptions Index, 2022, Transparency International. Available on <https://www.transparency.org/en/cpi/2022>.

² *Ibid*

³ Tangri, Roger K. *The Politics of Elite Corruption in Africa: Uganda in Comparative African Perspective*/. Routledge Studies on African Politics and International Relations; 3. 2013.1

⁴ *Ibid*

⁵ Maria Burnett, Let the Big Fish Swim: Failures to Prosecute High Level Corruption in Uganda, Human Rights Watch & Allard K. Lowenstein International Human Rights Clinic -Yale Law School, October 2013. Available on https://www.hrw.org/sites/default/files/reports/uganda1013_ForUpload_1.pdf (accessed on July 25, 2016)

⁶ See Susan Rose- Ackerman, The Political Economy of Corruption in Elliott, Kimberly Ann, and Institute for International Economics. *Corruption and the Global Economy* /. Washington, DC: Institute for International Economics, 1997. Pg. 33. 9

⁷ Inspectorate of Government Statute, 1988.



The mandate of this institution was further streamlined in the country's newly promulgated 1995 Constitution.⁸ In addition to this, Uganda enacted a dedicated anti-corruption legislation in 2009.⁹ The main objective of the law is stated to be the prevention of corruption in both the public and private sphere. This is partly achieved through the criminalization of bribery and other forms of corruption such as unjust enrichment and abuse of office. More importantly, the law imposes different penalties ranging from imprisonment to payment of fines where a person is found guilty of committing a corruption offence. Most recently, the law was amended to strengthen provisions on asset recovery. In all these ways, the law is intended to act as a deterrence mechanism. It should be noted that the law is complemented by various other legislations.

These include legislations that among others seek to protect whistle blowers, and those that make it mandatory for certain categories of public servants to declare their wealth. While all these legislative interventions are critical in the fight against corruption, they have for the most part been rendered ineffective. This is largely because the state lacks the political will to enforce existing anti-corruption laws. Second and most critical, many corruption scandals are enshrouded in secrecy. This makes it difficult for such scandals to be detected, investigated, and prosecuted.

The right of access to information, if well enforced, can empower citizens to seek and receive information including that related to perpetuation of corruption. With this, citizens are in a better position to report and follow up on cases of corruption, meaningfully participate in government affairs and to hold those responsible accountable. Access to information also promotes transparency and engenders efficiency in government. This is important in the fight against corruption and may bolster anti-corruption efforts in contexts where other interventions remain challenged. The role of the right to information in the fight against corruption is recognized in major anti-corruption treaties including the United Nations Convention Against Corruption (UNAC) and the African Union Convention on Preventing and Combating Corruption (AUCPCC).

At the national level, several countries have in recognition of the role played by the right of access to information in the fight against corruption and in engendering transparency and accountability protected it as part of the Constitutional rights. Others have enacted dedicated access to information laws.

⁸ Constitution of the Republic of Uganda, 1995 (as amended)

⁹ Anti-Corruption Act, 2009.



Uganda is no exception and Article 41 of the country's Constitution provides that *"Every citizen has a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person."*¹⁰

Moreover, under Clause 2 of Article 41, Parliament was enjoined to enact a law prescribing the classes of information available and the procedures for obtaining access to that information.¹¹ Pursuant to this, Uganda became one of the first countries in Africa to enact specific access to information legislation in 2005.¹² The law is operationalized by the Access to Information Regulations of 2011.

1.1 Purpose of the study

Dedicated access to information legislation makes it possible for citizens to access critical information including that regarding the perpetration of corruption, participate in decisions that affect them, and hold government accountable. Timely access to information also breeds transparency and can help to reduce on incidences of corruption. However, for this to happen, such legislation must be effectively implemented. Against this background, the Anti-Corruption Coalition of Uganda (ACCU) deemed it necessary to commission a study to assess the status of Implementation of the Access to Information Act, 2005 and the Access to Information Regulations passed in 2011 to operationalize the Act.

The study was also meant to highlight current barriers to the enjoyment of the right of access to information and make appropriate recommendations. The assessment was largely qualitative, and the status of implementation is measured using yardsticks developed based on the substantive elements of the right to access information, individual and institutional mandates, and the broad purpose of the law i.e., to promote an efficient, effective, transparent, and accountable government through enhancing citizens' access to information.

1.2 Methodology/Implementation Yardsticks

The study employed a qualitative approach to inquiry complemented by secondary data reviews. This involved qualitative methods of data collection and analysis as well as obtaining quantitative data from relevant secondary sources. Data sources included documents, databases, websites, and interviews with different stakeholders.

¹⁰ Article 41, Constitution of the Republic of Uganda, 1995 (as amended)

¹¹ *Ibid.*

¹² Access to Information Act, 2005



The study also adopted triangulation of data to facilitate a comparison of information from different sources such as documents and interviews on a similar subject from different stakeholders. Additionally, formal requests for information/records were lodged with selected MDAs. The study findings were enriched with views and comments from various stakeholders at a validation workshop.

A preliminary review of literature was conducted to inform the specific issues to investigate and selection of key informants for the interviews. The study involved a review of a wide range of documents which included the Access to Information Act 2005, Access to Information Regulations 2011, official government documents, legal and policy documents, reports, international and regional instruments, and journal articles. Primary data was generated through key informant interviews with officials from selected government ministries, departments, and agencies (MDAs) and civil society organizations.

The MDAs included the Ministry of ICT, Ministry Justice and Constitutional Affairs and the Ministry of Local Government. The departments and agencies included the Inspectorate of Government (IG), Director of Public Prosecutions (DPP), Directorate of Ethics and Integrity (DEI), National Information Technology Authority of Uganda (NITA-U), Uganda Media Centre (UMC) and the Government Citizen Interaction Centre (GCIC). The civil society organizations included TWaweza, Transparency International, Human Rights Network for Journalists and the Environmental Shield.

In the study, the status of implementation was measured using yardsticks developed based on among others the substantive elements of the right to access information, individual and institutional mandates prescribed in the law, and the stated purpose of the law i.e., to promote an efficient, effective, transparent, and accountable government through enhancing citizens' access to information.

2.0 Global & Regional Perspectives of the Right of Access to Information

First recognized under the Universal Declaration of Human Rights (UDHR) in 1948, freedom of information, also known as the right to access information, has been in existence for over seventy-five (75) years. Article 48 of the UDHR provides thus "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."¹³ Although the UDHR is not legally binding, the Bill of rights (including the right to information) contained therein has become a very high reference point for all democratic societies.

¹³ Article 48, Universal Declaration on Human Rights.



More importantly, the UDHR has inspired the enactment of legally binding international and regional human rights instruments that seek to protect and promote a broad corpus of rights including the right to information. Those to which Uganda is party and legally bound to implement include the International Covenant on Civil Political Rights (ICCPR). Article 19 of this Convention protects the right to information in similar terms as the UDHR. It provides to the effect that *“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”*¹⁴ At the regional level, the right to information is protected in even more specific terms under Article 9 of the African Charter on Human and Peoples Rights (ACHPR). It provides to the effect that *“Every individual shall have a right to receive information.”*¹⁵

Beyond this, the importance of the right to information has also been underscored in some regional and international instruments that seek to combat corruption. At the global level, Article 13 (1) of the United Nations Convention Against Corruption (UNCAC) makes it mandatory for state parties to take appropriate measures to promote active participation of both individuals and groups from outside the public sector in the prevention of and the fight against corruption. This is to be achieved by among others ensuring public access to information.¹⁶ Article 10 (a) of the same Convention further enjoins states to take such measures as may be necessary to enhance transparency regarding the organisation, functioning and decision-making processes where appropriate through taking such measures as the publication of information including periodic reports on the risks of corruption in public administration.

¹⁴ Article 19, International Covenant on Civil Political Rights

¹⁵ Article 9, African Charter on Human and Peoples Rights

¹⁶ Article 13 (1)(b), United Nations Convention Against Corruption



At the regional level, Article 9 of the African Union Convention on Preventing and Combating Corruption (AUCPCC) provides thus “Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences.”¹⁷

The recognition and protection of the right to information in the various legal instruments goes to show its importance in building strong democratic societies and enhancing transparency and accountability. More importantly, it demonstrates the potential role of enhanced access to information in fighting corruption. Given its importance, the United Nations General Assembly (UNGA) declared September 28 of every year the International Day for Universal Access to Information.¹⁸ Prior to this, the Day had been proclaimed by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in 2015.¹⁹

Earlier on in 2012, the African Commission on Human and Peoples Rights called upon African Union (AU) member states to embrace and celebrate the right to know day on September 28 of every year.²⁰ The Commission’s resolution to this effect was followed by the adoption of a Model Law on Access to Information for Africa in 2013.²¹

Suffice to mention that the right to information is firmly protected under several national laws. In 1766, Sweden became the first country in the world to enact a freedom of information law.²² This example has been emulated by several other countries and to date a total of 135 UN member states have adopted constitutional and other statutory guarantees for public access to information.²³ Uganda is one of the countries that protects the right to information in both its national Constitution and other statutory legislations.

¹⁷ Article 9, African Union Convention on Preventing and Combating Corruption

¹⁸ Proclamation of 28 September as the International Day for Universal Access to Information, Resolution adopted by the General Assembly on 15 October 2019, A/RES/74/5. Available on https://digitallibrary.un.org/record/3833353?ln=zh_CN

¹⁹ UNESCO, Proclamation of 28 September as the International Day for the Universal Access to Information, General Conference, 38, 2015. Available on <https://unesdoc.unesco.org/search/N-EXPLORE-982bd11f-2a62-4504-8576-3a0ec7b98eef>

²⁰ Resolution ACHPR/Res.222 (LI), 2012. Available on <https://achpr.au.int/sessions/resolutions?id=241>

²¹ Model Law on Access to Information for Africa, 2013. Available on <https://achpr.au.int/en/node/873>.

²² History of Right of Access to Information, Access Info Europe. Available on <https://www.access-info.org/2009-07-25/history-of-right-of-access-to-information/>

²³ Access to Information Laws, Facts and Figures, UNESCO. Available on [Access to Information Laws | UNESCO](https://www.unesco.org/en/access-to-information-laws)



3.0 Legal Framework for the Protection of the Right of Access to Information in Uganda

The right to access information is among the rights protected under the 1995 Constitution of the Republic of Uganda. Article 41 (1) of the Constitution stipulates that *"Every citizen has a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person."*²⁴

Under clause 2 of the same provision, Parliament is enjoined to make laws for the purposes of prescribing the classes of information referred to in Clause 1 and the procedure for obtaining access to that information.²⁵ It took a period of ten (10) years for Parliament to honor this command. In the absence of the law, citizens whose access to information requests made under Article 41 of the Constitution were denied resorted to courts of law for recourse. Although a protracted process, the courts used the opportunity to set very critical precedents for the enjoyment of the right of access to information.²⁶

The Access to Information Act was only passed in 2005 making Uganda the fourth African country to enact a dedicated freedom of information law. The Act protects the right of access to information in terms similar to those contained in Article 41 of the Constitution.²⁷ Section 3 of the Act summarizes the main purpose for which the law was enacted as being the promotion of efficient, effective, transparent, and accountable government and the provision of the right of access to information held by state organs other than that which is exempt. The other stated purposes of the law include a) the protection of persons who disclose evidence of contravention of the law, maladministration or corruption in government bodies, b) empowerment of the public to effectively scrutinize and participate in government decisions that affect them and c) promotion of transparency and accountability in all organs of the state by enabling the public to access timely, accessible, and accurate information.

The law also provides for among others the proactive disclosure and automatic availability of certain records, designation and duties of information officers, handling of information requests, period for grant of requests, categories of information exempted from access, immunities for persons disclosing information, complaints and appeals and offences and penalties where there is breach of the provisions of the law.

²⁴ Article 41, Constitution of the Republic of Uganda, 1995 (as amended)

²⁵ *Ibid.*

²⁶ Ngabirano, D. (2013) "The Uganda Freedom of Information Campaign: Stuck in the Mud?," in *Access to Information in Africa*. (Afrika-Studiecentrum Series), pp. 191–214.

²⁷ Section 5, Access to Information Act, 2005.



Moreover, Section 47 of the Act provides to the effect that the Minister may enact Regulations regarding any matter permitted by the law, fees, notice periods, forms of information requests, criteria for deciding categories of information that should be made available and any other administrative or procedural matters necessary to operationalize the Act.²⁸

This notwithstanding and just like was the case with the passage of the main law, it took five (5) years for the responsible Minister to enact the required Regulations i.e., Access to Information Regulations 2011. The delay in the enactment of the Regulations is partly responsible for the poor implementation of the law.

Still as part of the efforts to give effect to the right of access to information under the law, the government of Uganda has developed a few policy instruments. In 2013 the government of Uganda passed a Communication Strategy with the objective to achieve a proactive and coordinated approach in handling communication functions. More recently in 2021, the Ministry of Information in collaboration with two CSOs published an access to information guide for civil servants.²⁹

Besides the Access to Information Act of 2005, there exists other legislations that provide for the right of citizens to access information in the possession of specific state organs. They include the Mining and Minerals Act of 2022, National Environment Management Act of 2012, Leadership Code Act 2002 (as amended), Public Private Partnerships Act 2015 among others.

Moreover, Uganda is signatory to several regional and international treaties that seek to protect and promote the right of access to information. These include the International Covenant on Civil Political Rights (ICCPR), African Charter on Human and Peoples Rights (ACHPR), United Nations Convention on Combating Corruption (UNCAC), African Union Convention on Preventing and Combating Corruption (AUCPCC). Under these treaties, the government of Uganda has the duty to respect, protect, promote, and fulfil the right of access to information.

²⁸ Section 47, Access to Information Act, 2005.

²⁹ Access to Information, A Guide for Civil Servants, Ministry of ICT and National Guidance, AFIC and TWaweza. Available on https://twaweza.org/wp-content/uploads/2021/05/TWaweza-ATI- GUIDE_MAY-2021_PRESS_compressed.pdf



3.1 Substantive Elements of the Right to access information.

The yardsticks used to assess the status of the implementation of the Access to Information Act and the Regulations made thereunder are partly informed by the substantive elements of the right of access to information. The substantive elements also necessarily affect the enjoyment and enforcement of the right as provided for under the Constitution, the Access to Information Act and the Regulations.

The main substantive elements of the right of access to information in possession of the state and its organs are contained in Article 41 of the Constitution and Section 5 of the Access to Information Act. These provisions accord every citizen *"a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person."*³⁰

In the first place, both provisions restrict the enjoyment of the right of access to information to Ugandan citizens. In the case of *Greenwatch Uganda Ltd v. Attorney General and Uganda Electricity Transmission Company Ltd*³¹, this was interpreted to include corporate citizens i.e., Ugandan registered corporate entities as well as those substantially owned and/or controlled by Ugandans. In the *Greenwatch* case the petitioner was a registered NGO and company limited by guarantee dedicated to advocacy and research on environmental protection. They filed an information request seeking to access details of the Power Purchase Agreement (PPA) entered between AES Nile power and the then defunct Uganda Electricity Board (UEB). The court held that the organisation could access the information subject to proof of citizenship i.e., evidence of its membership and inclusion of Ugandan citizens.

Further still, the records that can be accessed under the law are limited to information and records of government ministries, commissions and other government organs and agencies.³² These may be provided in various formats including written, visual, curial, and electronic forms.³³ Cabinet records and those of its committees are expressly excluded from the scope of information that may be accessed under the Act.³⁴

³⁰ Article 41 and Section 5, Constitution of the Republic of Uganda and Access to Information Act, 2005.

³¹ High Court Miscellaneous Suit No. 0139 of 2001.

³² Section 2 Access to Information Act, 2005.

³³ *Ibid*, Section 4.

³⁴ *Ibid*, Section 25.



The other exempted information includes that pertaining to privacy of another person,³⁵ commercial information of a third party,³⁶ confidential information,³⁷ legally privileged records,³⁸ and information likely to harm defence, security and international relations.³⁹

Notwithstanding these exemptions, the information officer shall grant access to a record otherwise prohibited in certain cases.⁴⁰ These include instances where the disclosure would reveal evidence of substantial contravention of, or failure to comply with the law, situations of an imminent or serious public safety health and environmental risk and thirdly, where the public interest in the disclosure of the record is greater than the harm contemplated. In all these cases it is mandatory for the information officer to disclose the sought information.

This position was confirmed in the case of Charles Mwanguhya & Andrew Izama v. *Attorney General*⁴¹ where the applicants both Ugandan journalists filed an appeal against a decision of the permanent secretary in the Ministry of Energy and Mineral Development denying them access to information contained on Production Sharing Agreements (PSAs) signed by the government of Uganda and the international oil companies. Although the court declined the appeal on reasons that the applicants did not show sufficient public interest in the disclosure, it acknowledged that where such is shown, the information officer is bound to grant the request even where to do so would be to divulge the commercial interests of a third party protected under the Act.

4.0 Status of Implementation of the Access to Information Act, 2005

The assessment of the status of implementation of the Access to Information Act is measured by several implementation yardsticks. The design of these yardsticks was informed by the substantive elements of the right of access to information, individual and institutional mandates, and the stated objectives of the law among others.

The yardsticks used in assessing the status of implementation of the law in the various MDAs studied thus include a) citizens ability to access to information, b) existence of manuals of functions c) functionality of information officers d) submission of annual reports to parliament and respect for implementation timelines in the law. These are discussed in more detail below.

³⁵ *Ibid*, Section 26

³⁶ *Ibid*, Section 27

³⁷ *Ibid*, Section 28

³⁸ *Ibid*, Section 31

³⁹ *Ibid*, Section 32

⁴⁰ *Ibid*, Section 34

⁴¹ Misc Cause No. 751 of 2009



4.1 Citizens Access to Information

Section 5 of the law bestows upon every Ugandan citizen the right to request for access to information. The request is required to be made to the information officer in writing and in a prescribed form.⁴² The reason given for the request to access information or the officer's belief as to why the information may be needed shouldn't affect the right of the person requesting the information.⁴³ Secondly, once received, the information request is required to be provided within a reasonable period of time but in any case within twenty one (21) days.⁴⁴ Where the request is declined, reasons for refusal should be provided and the provisions of the law relied upon stated.⁴⁵

Information officers to whom requests for information are made are enjoined to offer reasonable assistance without charge to persons who indicate their wishes to access certain information.⁴⁶ Similarly, where the request relates to a record that is not in possession of the public body to which it is made, the information officer is required to transfer such request to the appropriate body and to notify the person making the request of such transfer within twenty one (21) days.⁴⁷

Whereas all the above stated provisions are collectively meant to enhance citizens' access to information, findings from the study show that a) most of the few information requests lodged by citizens under the Access to Information Act are declined on technical and other grounds b) these denials have resulted into a general decline in the number of information requests lodged by citizens c) citizens prefer to utilize informal platforms to access information albeit this is mostly less contentious information. The totality of this is that eighteen years (18) since the Access to Information Act was passed, citizens' access to information using its provisions is still greatly limited.

4.1.1 Denial of Information Requests by MDAs

Aside from cases of outright deliberate denial of information requests by officials without giving justifiable reasons, it was discovered that in some cases MDAs rely on technicalities to turn down such requests.

There are instances where information officers declined to grant access to information sought on the basis that the request for such information was not made in the appropriate format.

⁴² Section 11, Access to Information Act, 2005.

⁴³ *Ibid*, Section 7

⁴⁴ *Ibid*, Section 16

⁴⁵ *Ibid*

⁴⁶ *Ibid*, Section 12

⁴⁷ *Ibid*, Section 13



In other cases, requests have been denied because they do not state a reason as to why the information sought should be disclosed. All this defeats the enjoyment of the right to access information under the law. More significantly, the denial of information in these circumstances is contrary to the law which clearly stipulates that the failure to submit the request in a prescribed format or to provide a reason why such information should be released should not defeat the request.

The Office of the Inspectorate of Government (IG) featured prominently among the MDAs that are infamous for relying on technicalities to defeat the right of citizens to access information in their possession. It was shown that in the earlier days the IG denied several requests for information contained in wealth declarations made by prominent public officials on the basis that there was no statutory form on which the public could request for access to that information. This was challenged in courts of law by a civil society organisation that had been denied access to wealth declarations made by Permanent Secretaries in all MDAs i.e., Hub for Investigative Media (HIM). Eventually the matter was settled on the terms that the IG would within a period of one year publish the statutory form that could be used by citizens to access details contained in wealth declarations.⁴⁸

It took over eleven years for the law to be amended to include a statutory format that the public could use to access information contained in wealth declarations. However even with the prescribed form in place, interviews conducted with various civil society organisations show that the law gives the Inspector General of Government (IGG) a very wide discretion in deciding whether to grant access to information contained in wealth declarations.

In these circumstances, requests for access to wealth declarations are often denied on the basis that they are not made in good faith. This was confirmed in an interview with an official from the IG who stated that information contained in these declarations is confidential information that can only be disclosed to other investigative agencies. The official further stated that on most occasions those seeking such information do so in bad faith and for this reason the IG is strongly inclined to deny them access. When further asked if there has been any instance where a request to access information contained in wealth declarations has been granted by the IG, the official confirmed that there was none.⁴⁹

⁴⁸ Edward Ronald Senteza Sekyewa T/A Hub for Investigative Media v. Attorney General of Uganda, Misc. Cause No.354 of 2013.

⁴⁹ Interview with Official from the Inspectorate of Government, July 24, 2023.



The issue of access to wealth declarations aside, an attempt to lodge a formal access to information request with the IG as part of this study was frustrated by officials in the registry. They insisted that they could only receive the request if it was accompanied by a cover letter stating among others the reasons why the information requested is required. It should be noted that the request was made in the format prescribed in the Access to Information Act. Secondly the information sought was very basic and related purely to records of steps taken by the IG to implement the Access to Information Act i.e., whether they have published a manual of functions and an annual report detailing the number of information requests received and of those how many were granted.

4.1.2 Delays in Granting Information Requests

Under the Access to Information Act, information officers are required to respond to information requests filed as soon as reasonably possible but in any event within twenty- one (21) days after the request is received.⁵⁰ This notwithstanding, interviews conducted with civil society show that there are still delays in granting information requests by someMDAs. Officials from the Human Rights Network for Journalists -Uganda (HRNJ-U) expressed concern over this practice stating that for the practice of the journalism profession, it is critical that requests are granted in time and before the sought information becomes stale and ceases to be news.⁵¹

Delayed response to information requests was attributed to the busy nature of information officers who are designated by law to grant them. The information officers who are the chief executives are in most cases the accounting officers of the institutions they lead. They hold many other responsibilities leaving them with limited time to respond to information requests. Delays were also attributed to the need for officers to sometimes seek the legal opinion of the Attorney General before they can grant information in certain cases.⁵² Delays have also been blamed on the lengthy periods required to retrieve some categories of information before the request can be granted.

Given that the law requires the information requested to be provided in a timely manner, it is of utmost importance that requests are responded to as quickly as possible. The twenty-one days provided for under the law are already unnecessarily long. Going beyond is rather unacceptable in the current dispensation where it is much easier to process the information requested for.

⁵⁰ Section 16, Access to Information Act, 2005.

⁵¹ Interview with Legal Officer, HRNJ-U, July 28, 2023.

⁵² Interviews with Officials from the Directorate of Ethics and Integrity and the Ministry of Justice and Constitutional Affairs, July 2023.



MDA officials interviewed seemed to agree that even the twenty-one days provided for are relatively long and that if available, the information requested should be availed immediately to allow the person requesting to utilize it in a timely manner. In this regard they recommended for the timeline in which the request should be responded to be adjusted to a maximum of five (5) working days.⁵³ Similar thoughts were expressed by the members of civil society interviewed.

4.1.3 Decline in the number of information requests lodged by citizens.

Interviews with both MDAs and civil society organisations show that over the years, the number of formal information requests lodged by citizens under the provisions of the Access to Information Act have declined tremendously. This is attributed to two main factors i.e., lack of citizen awareness about the right to access information under the law, and secondly, citizens' frustration because of many information requests being denied.⁵⁴ In this regard an Official from the Directorate of Ethics and Integrity (DEI) stated that some public officials do not like to be held accountable and will deny information requests lodged by citizens to frustrate them. He stated further that when citizens are constantly denied access to the information they require, they opt to resign from lodging requests.⁵⁵

This was confirmed by the Environmental Shield- a civic organisation specializing in climate, natural resources, and environmental justice. They stated that all their requests to access certified copies of Environmental and Social Impact Assessments (EIAs) reports relating to the de-gazettement of part of Budongo forest for sugar growing were unjustifiably denied by the National Environment Management Authority (NEMA).⁵⁶ They challenged this in courts of law and eventually received judgement in their favor. Even with this, NEMA released the reports in piecemeal. According to the Environmental Shield, the experience goes to show that NEMA was bent on frustrating the organisation from ever accessing the reports and holding them accountable for any lapses in the conduct of the ESIAs.⁵⁷ The decline in the number of information requests lodged by citizens means that the exercise and enjoyment of the right to access information under the Act is presently limited. department stated that for the last one year she has been employed there, she had never seen any access to information request brought under the Act.⁵⁸

⁵³ *Ibid.*

⁵⁴ Interview with TWaweza, July 19, 2023

⁵⁵ Interview with DEI Officials, July 20, 2023

⁵⁶ Interview with a member of the Environmental Shield, July 31, 2023.

⁵⁷ *Ibid.*

⁵⁸ Interview with Official from Communications Department at the Ministry of Local Government, July 19, 2023.



At the Ministry of Local Government (MOLG), an official in the communications This same trend was observed at the Ministry of Justice and Constitutional Affairs (MJCA) where the communications officer noted that since the outbreak of the Covid -19 pandemic, they have received relatively few information requests than before. An officer at the National Information Technology Authority (NITA-U) also stated that they have rarely received formal information requests brought under the Access to Information Act and the Regulations. He attributed this to the fact that NITA-U is mainly an information coordination hub for all other MDAs. Secondly, NITA-U has supported over 90% of MDAs to build functional websites where all information related to the services offered by those Ministries is published online. This has made it possible for citizens to access such information without having to lodge formal requests⁵⁹

When asked as to why they have very few information requests, officials at the Uganda Revenue Authority (URA) also stated that they have a very active public affairs department that always provides taxpayers with critical information. They also routinely publish booklets relating to different aspects of taxation. A number of these books and information materials have been translated into local languages. All this was stated to be done as part of their mandate to provide taxpayer education.⁶⁰

4.1.4 Preference of informal platforms over the Access to Information Act

The findings show that citizens prefer to utilize social media and other easier and friendly platforms set up by the different MDAs (as opposed to lodging formal information requests) to request for the information that they require. In this regard, the e-citizen platform, the Government Citizen Interaction Centre (GCIC) call center and twitter platforms set up by the Ministry of Justice and Constitutional affairs fared as some of those most utilized by citizens to demand for information from public bodies.⁶¹

It should however be noted that on most occasions, the information requested for using these platforms is very basic. Interviews with key stakeholders and reviews of the various information platforms show that most of the information often requested for using these platforms relates to the availability of vacancies in specific agencies. It is only on very few occasions that more sensitive information such as that touching on the functionality of the MDAs is requested for. This defeats the purpose of the law to hold public officials accountable and to promote an efficient and effective government.

⁵⁹ Interview with NITA-U Official, July 21, 2023.

⁶⁰ Interview with URA Officials, July 21, 2023

⁶¹ Interviews with Officials from the Government Citizen Interaction Centre and Ministry of Justice and Constitutional Affairs.



In totality, the right of citizens to access information in possession of the state has been greatly hampered by the factors highlighted above. This is confirmed by a review of [askyourgov](http://askyourgov.org) website which is an initiative between the government of Uganda and civil society to provide an online platform for citizens to obtain information from public authorities. The website shows that the number of unresolved information requests far overshadows that of successful requests. In particular it is shown that, out of 12,605 requests made as of 1st July 2023, only 818 were successful. Otherwise, a total of 11,477 remained unresolved and 244 were altogether unsuccessful. This indicates that only 6.5% of the total requests made to public agencies were successful. The biggest proportion of requests i.e., 93.5% was unsuccessful. The table below summarizes the number of requests made to all public agencies via the [askyourgov](http://askyourgov.org) website.

Table 1: Information Requests addressed to all public agencies on [askyourgov](http://askyourgov.org) website

Requests	Number	Percentage
Successful	818	6.5%
Unresolved	11477	91%
Unsuccessful	244	2.4 %
Total	12605	

Source: www.askyourgov.org as of 1/7/2023

In respect to the MDAs studied in this report, data obtained from askyourgov.org web portal shows that Uganda Revenue Authority (URA) had the highest number of requests (705 requests); out of which 164 requests were successful, 41 unsuccessful and 500 were unresolved. Whereas the Inspectorate of Government (IG) was also found to have a relatively high rate (31%) of successful requests, the Inspectorate of Government (IG) is one of the agencies with the least number of requests (24 requests) along with Directorate of Public Prosecution (DPP) (18 requests), and Uganda Media Centre (19 request). The Ministry of Justice and Constitutional Affairs, Ministry of Local Government and Uganda Media Centre had no successful requests. The study established that the number of unsuccessful requests remains high. For example, although the Uganda Revenue Authority and Inspectorate of Government (IGG) had relatively high success rates of requests at 33% and 31% respectively, over 60% of the requests their remained unresolved. The Office of the Auditor General (OAG), with thesecond highest number of requests (371) also had a success rate of only 17%.

This implies that over 70% of the requests were unresolved. Overall, all the public authorities selected for this study had a request success rate of less than 50% on askyourgov.org. This indicates that whereas citizens have endeavored to seek information, majority of their requests are unresolved and unsuccessful. The findings also suggest that information requests made to public agencies are largely not responded to which



undermines the right to access to information.

Table 2: Information Requests addressed to selected MDAs on askyourgov.ug website

M D A s	Number of Requests				Percentage of Successful Requests
	Successful	Unsuccessful	Unresolved	Total	
Ministry of ICT and National Guidance	6	8	152	166	4%
Directorate of Public Prosecution (DPP)	1	0	17	18	6%
Inspectorate of Government (IGG)	5	3	16	24	31%
Ministry of Justice and Constitutional Affairs	0	0	48	48	0%
Ministry of Local Government	0	0	50	50	0%
National Information Technology Authority	5	4	97	106	5%
Office of the Auditor General (OAG)	55	0	316	371	17%
Uganda Media Centre	0	1	18	19	0%
Uganda Revenue Authority (URA)	164	41	500	705	33%

Source: www.askyourgov.com as of 21/7/2023

The dismal number of successful information requests granted goes to show that Section 5 of the Act that gives every citizen a right to access information has not been sufficiently implemented. More importantly, interviews with active information requestors show that there are significant delays even where such requests are granted with the effect that the information received is “stale.”

4.2 Existence of a Manual of Functions and Index of Records

The Access to Information Act, 2005 imposes a duty on the Information officer to compile a manual.⁶² This is defined to mean a manual of functions of, and index of records held by a public body.⁶³ The manual is required to contain among others, a description of the public body and its functions, services provided, address and contacts of the public body and of the information officer i.e., postal and street address, phone, fax and email address, procedures for accessing information and a description of records held by the public body. The manual is required to be compiled within six months of the coming into existence of a public body. Moreover, public bodies are required to publish an updated manual at least once every two years.

In addition to the above, the Minister is required to publish the postal and street address, phone and fax number and electronic email address of the information officer in every directory issued for general use by the public.⁶⁴

⁶² Section 7, Access to Information Act, 2005.

⁶³ *Ibid*, Section 4, ⁶⁴ *Ibid*, Section 9.



None of the MDAs and public agencies studied has published a manual of functions in the manner prescribed by law as shown in the table below.

Table 3: Availability of Manual of Functions and Index of Records in Selected MDAs

	MDAs	FINDINGS
1.	Ministry of ICT and National Guidance	Not Available
2.	Directorate of Public Prosecution	Not Available
3.	Inspectorate of Government	Not Available
4.	Ministry of Justice and Constitutional Affairs	Not Available
5.	Ministry of Local Government	Not Available
6.	National Information Technology Authority	Not Available
7.	Office of the Auditor General	Not Available
8.	Uganda Media Centre	Not Available
9.	Uganda Revenue Authority	Not Available
10.	Directorate of Ethics and Integrity	Not Available
11.	Citizens Government Interaction Center	Not Available

4.2.1 Client Charters in lieu of Manuals

When asked about the requirement to publish a manual under the law, some MDAs pointed to the fact that they have active websites and detailed Client Charters whose contents are similar to that of a manual of functions. Those that were established to have Charters in this regard include, the Ministry of Justice and Constitutional Affairs, Directorate of Public Prosecutions, Inspectorate of Government, and the Uganda Revenue Authority. Upon review of all these charters, it was established that whereas they may to some extent contain all the details required to be compiled in the manual of functions, they are not as comprehensive. Only the URA had an updated client charter among those reviewed.



Table 4: Analysis of Client Charters and websites in select MDAs/

CONTENTS OF THE MANUAL OF FUNCTIONS AND INDEX OF RECORDS	MDAs										REFERENCE	
	MoICT&NG	AOG	IGG	DP	GCIC	MoLG	MoJCA	UMC	NITA-U	DEI		URA
a) A description of the public body and functions the public body	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Websites, Client Charters
b) The postal and street address, phone and fax number and address of the information officer of the body and every deputy of the information officer	--	--	--	✗	✗	--	--	--	--	--	✗	Websites, Client Charters
c) The address of the established office of the public body at which the public may request and obtain information	✓	✓	✓	✓	✓	✓	✓	✓	✓	--	✓	Websites, Client Charters
d) Sufficient detail, including the nature of all formal and informal procedures available to facilitate a request for access	✗	✗	✗	✗	--	--	--	--	--	--	✗	Websites, Client Charters
e) A description of the subjects on which the body holds records and the categories of records held on each subject	✗	✗	✗	✗	✗	✗	--	✗	✗	✗	✗	Websites, Client Charters
f) The most recent notice published under section 8, if any, regarding the categories of records of the body which are available without having to request access under this Act	--	--	--	--	--	--	--	--	--	--	--	Websites, Client Charters



g)	A description of the services available to members of the public body and how to gain access to those services	--	--	f	--	f	f	f	f	f	--	--	✓	Websites, Client Charters
h)	A description of any arrangements or provisions for a person by consultation, making representations or otherwise to participate in or influence <ul style="list-style-type: none"> i. The formulation of policy or ii. The exercise of the powers or performance of duties, by the body; description of all remedies available in respect of an act or a failure to by the body i) A description of all remedies available in respect of an act or failure to act by the body j) Such other information as may be prescribed - Section 7(1) 	--	f	f	f	f	f	f	f	f	f	f	f	Websites, Client Charters

AVAILABLE	✓
AVAILABLE BUT NOT SUFFICIENT	S
NOT AVAILABLE	—

*Information officer⁶⁵ – As defined in the Access to information Act 2005

⁶⁵ Section 4 (Page 9)



4.3 Publication of automatically available information.

It is a requirement for information officers to publish a description of the categories of records that are automatically available from the public body and in respect of which a request for information need not be made.⁶⁶ The information officer should show which categories of records are available for inspection, purchase, copying and those freely available.

Of the MDAs surveyed in the study i.e., Ministry of ICT, Ministry Justice and Constitutional Affairs and the Ministry of Local Government, Inspectorate of Government (IG), Director of Public Prosecutions (DPP), Directorate of Ethics and Integrity (DEI), National Information Technology Authority of Uganda (NITA-U), Uganda Media Centre (UMC) and the Government Citizen Interaction Centre (GCIC), none has published a record of information that is automatically available in accordance with the Access to Information Act.

4.3.1 Proactive Information Disclosure & Automatic Availability of records

The obligation to publish a list of automatically available information establishes an indirect responsibility for government and its organs to proactively disclose and make available certain information to the public without them having to first request for it. In this regard, the study established that some government agencies had put in place measures such as publication of documents on their websites, use of digital applications and social media platforms, press conferences, radio and TV shows and community barazas. All these efforts are geared towards enabling citizens to access information proactively.

The study also found out that a Government Citizen's Interaction Center (GCIC) was established in 2015 to provide a channel for receiving feedback and suggestions from citizens and to bridge the information gap. The GCIC works with various agencies to share information concerning their mandates, programs, activities, and services using digital platforms. GCIC also facilitates the management of citizen's feedback, queries and serves as a one stop center for government news. Additionally, GCIC shares information with the public using social media platforms, newsletters, online live chats, e-mail, websites, and government web portal. The interviews revealed that such proactive measures have gone a long way in enabling citizens to participate in monitoring service delivery, fighting corruption and enhancing transparency and accountability of government.⁶⁷

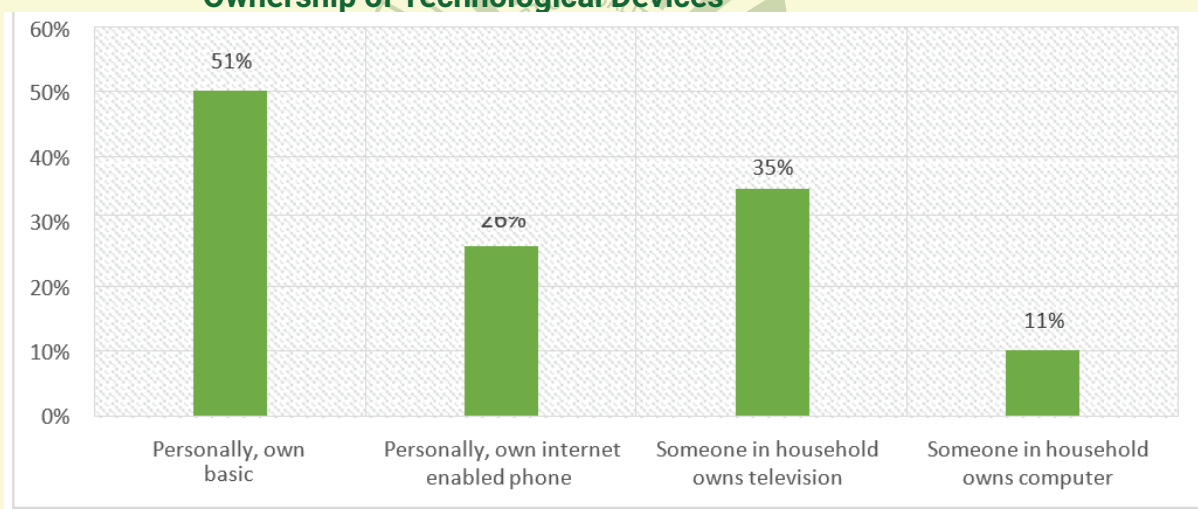
⁶⁶ Section 8, Access to Information Act, 2005.

⁶⁷ Interview with GCIC Official, June 20, 2023.



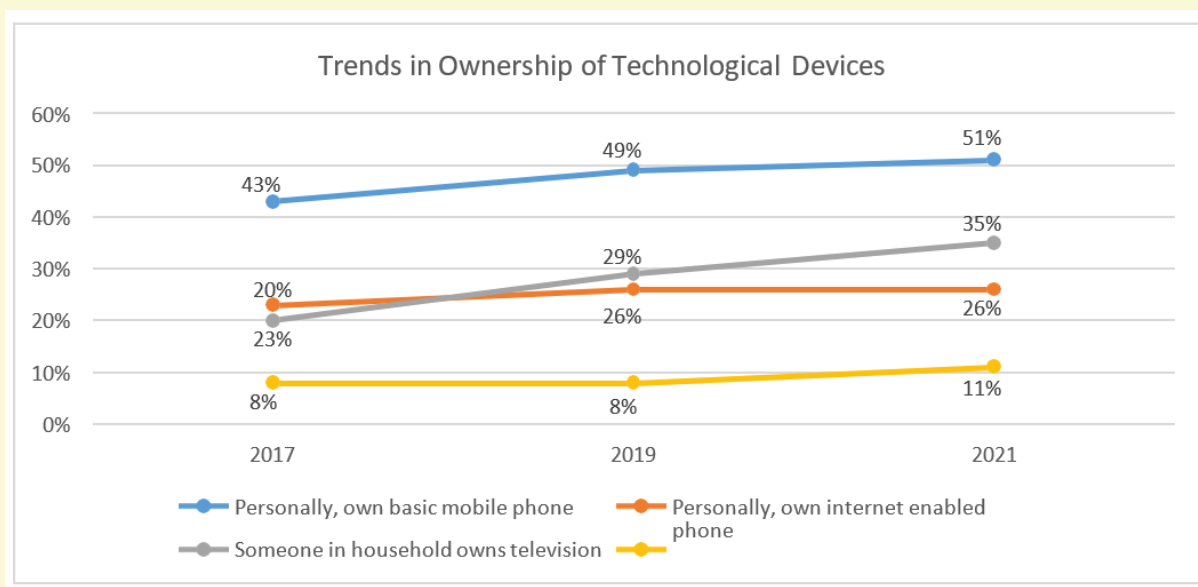
In spite of the fact that some proactive access to information initiatives by government MDAs in place such as websites, social media platforms, TV and radio programs are relevant in bridging the information gap between citizens and the government, access to and coverage of such media is relatively limited. Secondly, some of the popular social media sites that are used by some MDAs for communication such as facebook are currently banned and therefore inaccessible by members of the public except those with access to VPNs i.e., virtual private networks designed to sidestep internet barriers. Thirdly, the introduction of excise duties on internet usage has unnecessarily increased the cost of access to websites and other internet based platforms. In terms of coverage, available statistics indicate that technological devices such as internet enabled phones, computers and televisions which are key to facilitating access to information are limited. According to Afrobarometer Round 9 Survey in Uganda (2021), out of 77% Ugandan adults who personally owned a mobile phone, only 26% owned a phone with internet access. 35% lived in a household with a television and 10% had access to a computer in a household as indicated in the figure below.

Ownership of Technological Devices



Despite the limited access and ownership of technological devices, it is also important to appreciate that these have increased in the recent past as indicated in the figure below.





Source: Afrobarometer Round 7, 8 and 9 Surveys in Uganda

4.4 Functionality of Information Officers

The functionality and effectiveness of the information officer is central to the enjoyment of the right of access to information under the Access to Information Act, 2005. Information officers are given the mandate to receive information requests,⁶⁸ develop manuals of functions and index of records,⁶⁹ publish a list of information proactively available, assist citizens requesting for information with their requests for information,⁷⁰ and to transfer misdirected requests to an appropriate body,⁷¹

Under the law an Information officer is defined as the Chief Executive of a public body.⁷² It is further stated under Section 10 of the Act, that the Chief Executive of each public body shall be responsible for ensuring that records of that body are accessible.⁷³ At the Ministry level, the Permanent Secretary is the Chief executive while at local government level it is the Chief Administrative Officer.

This said, it was discovered in almost all the agencies contacted for this study that, the Chief Executive rarely attends to information requests lodged by citizens under the Access to Information Act. Instead, the role of receiving and granting of information requests has been delegated to other officers with designated information and communication roles.

⁶⁸ Section 6 Access to Information Act, 2005.

⁶⁹ *Ibid*, Section 7

⁷⁰ *Ibid*, Section 12

⁷¹ *Ibid*, Section 13

⁷² *Ibid*, Section 4

⁷³ *Ibid*, Section 10



Depending on the entity, such officers are commonly referred to as either “communications officers” or “public relations officers.” It was established that these officers in some cases receive information requests from members of the public. In this case they decide as to whether to grant the requests or not. However, if the information requested is of a contentious nature, they will often first seek the approval of the chief executive before they can release it.⁷⁴ In other cases, these officers are instructed by the chief executive of the public body to respond to certain information requests on their behalf. The effect of this is that these officers for the most part end up exercising the role of the chief executive under the Access to Information Act of 2005.

This seems to be in line with the Government of Uganda Communication Strategy passed in September 2011.⁷⁵ Under this strategy, Ministries are required to designate an Officer who can provide information in cases where Ministers and the Permanent Secretary are not available.⁷⁶ The strategy also proposes a redesignation of both “information officers” and “public relations officers” as Communication Officers.⁷⁷ The Communication Officers report directly to the Permanent Secretary.⁷⁸ Under the strategy, all communication with the Ministry is required to be channeled through the Communication Officers.⁷⁹ At the local government level, District Councils are also required to designate Officers responsible for providing information about the local government.⁸⁰

Whereas this may appear to be a pragmatic approach in a situation where the Chief Executive is difficult to access for purposes of lodging an information request, it is legally problematic and has in some cases made it difficult to exercise the right. As stated above, the law clearly vests the information officer role in the Chief executive of the public body. It is legally difficult to hold accountable any other officer to whom this obligation has been delegated under the law.

According to one member of civil society interviewed as part of this study, they were advised to address their information request to the communication officer of the Ministry responsible. However, since the information sought was very contentious, the communication officer declined to provide the sought information. The officer informed them that they had to first obtain the approval of the permanent secretary before releasing the information required⁸¹.

⁷⁴ Interview with Officer at the Ministry of Justice and Constitutional Affairs, July 20, 2023.

⁷⁵ Republic of Uganda, Government Communication Strategy September 2011.

⁷⁶ *Ibid*, pg.21

⁷⁷ *Ibid*, pg. 24

⁷⁸ *Ibid*, pgs.25 to 26

⁷⁹ *Ibid*

⁸⁰ *Ibid*, Pg. 22

⁸¹ Interview with member of civil society, July 27, 2023.



Regular follow-ups with the communication officer did not yield much as they kept indicating that they were still waiting for guidance from the permanent secretary. The request of the civil society member to see the permanent secretary was equally denied on the basis that his information request was already lodged with the office. In the end, the information requested was not forthcoming and the civil society member was forced to give up. More critically it became very difficult to hold any one accountable since they had dealt with the communication officer and yet the law vested the information officer role in the chief executive who in this case was the permanent secretary of the Ministry.⁸²

4.5 Annual Reports submitted to Parliament.

It is a mandatory requirement for every Minister to submit an annual report to Parliament with details of all information requests made to public bodies under his Ministry annually.⁸³ The report should also indicate as to whether the information requests were granted and where they have been denied the reasons for the refusal of grant of access.⁸⁴ If it is deemed more convenient, the law allows for the annual report to be included in the annual Ministerial Policy Statement.

Interviews conducted during the study show that none of the Ministers in the selected Ministries has so far submitted an annual report to Parliament with details of all information requests made to public bodies in the Ministry, how those requests have been handled and reasons for those that may have been declined. This position is confirmed by interviews with the ICT committee of Parliament which confirmed that such details have equally not been provided in the annual Ministerial Policy Statements – an alternative forum for provision of these details in the law.⁸⁵

⁸² *Ibid.*

⁸³ Section 43 (1), Access to Information Act, 2005.

⁸⁴ *Ibid*

⁸⁵ Interviews with Assistant Commissioner, Communication and Information Dissemination, Ministry of ICT and National Guidance and the Clerk to ICT Committee of Parliament, July 31, 2023.



5.0 Access to Information Regulations, 2011 & the Operationalization of the Access to Information Act 2005.

Under Section 1 of the Access to Information Act, 2005 the Minister was required to pass a Statutory Instrument appointing a day on which the law would come into effect. More critically, the Minister was enjoined to pass such Statutory Instrument in the same financial year that the Access to Information Act was enacted i.e., 2005/2006.

Furthermore, the Access to Information Act also gave the Minister the powers to make the Regulations necessary for the operationalization of the Act.⁸⁶ The Regulations were required to specifically address matters relating to a) that which is required or permitted by the Act, b) fees for access including procedures and guidelines for waiver or reduction of such fees, c) notice periods, d) forms for requests and where they can be obtained, d) uniform criteria for determination of categories of automatically available information e) information to which access may be denied and f) any administrative or procedural matters necessary to give effect to the Act.⁸⁷ In the same vein, the Minister was to specify in the Regulations the categories of cabinet records which ordinarily inaccessible may be released upon the expiration of certain timelines i.e., seven years, fourteen years, and twenty-one years from the time the record came into existence respectively.⁸⁸

These provisions notwithstanding, the Regulations giving effect to the Act only came into effect on April 21, 2011. This represents a delay of more than six years from the time that the Act was enacted. Secondly, the delay amounted to a breach of the provision of the Access to Information Act 2005 directing the Minister to pass a Statutory Instrument in the same year that the Act was passed i.e., The statutory instrument was passed in the year 2011/12 instead of 2005/2006.

Of more concern, the delays in passing the Access to Information Regulations affected the operationalization of the Act. Instead of coming into effect in the same year that the law was passed i.e., 2005/2006, it was kept in abeyance for a period six (6) years. This had several implications for the exercise and enjoyment of the right to access information under the law. The delay also limited the achievement of the purpose for which Act was enacted. As discussed, the Regulations were necessary to define the framework (such as forms of requests, fees payable and procedures) for lodging information requests with the relevant public bodies.

⁸⁶ Section 47, Access to Information Act, 2005.

⁸⁷ *Ibid*

⁸⁸ *Ibid*, Section 25.



Without such an enabling framework, it became very difficult for citizens to effectively exercise the right to information even when it was firmly protected in both the Constitution and the Access to Information Act. In the circumstances, those who were denied access to records due to the absence of the enabling Regulations resorted to enforcement of their right to access information in the courts of law- a protracted, tedious, and costly process.

6.0 Barriers to the Right to Access Information

The discussion above shows that implementation of both the Access to Information Act 2005 and the Regulations made thereunder has been very poor and sluggish. This has greatly impaired the exercise and enjoyment of the right to access information in the possession of the state and its organs. However, the poor enforcement of the law notwithstanding, there are numerous other barriers to the exercise and enjoyment of the right of citizens to access information.

One of the foremost barriers to the enjoyment of the right is the culture of secrecy that is evident in the conduct of public affairs. This can be traced back to the history of the nation state in Africa. Rather than serve the interests of citizens, the colonial state was established to subdue them. For this reason, the colonial state was designed to remain opaque and to operate without any form of accountability for the actions of its officers. Post- independence, many African rulers chose to retain the colonial state as it was in order to serve their own interests. Uganda is no exception to this with the result that secrecy remains the norm in most government institutions. In the circumstances the culture of secrecy remains a huge barrier to citizens' exercise and enjoyment of the right of access to information under the law.

Related to the above, there still exists a plethora of laws that seek to perpetrate the culture of secrecy in the conduct of public affairs contrary to the provisions of the Constitution and the Access to Information Act, 2005. They include the Official Secrets Act which among others seeks to classify all official documents.⁸⁹ An official document is defined to include a passport, any naval, army, air force, police or official pass, permit, certificate, license or other document of a similar character.⁹⁰ This is unnecessarily broad and unjustifiably excludes a broad spectrum of documents from being accessed by citizens contrary to their constitutional right.⁹¹

⁸⁹ Official Secrets Act cap.302.

⁹⁰ *Ibid*, Section 1 (1)

⁹¹ See, Dan Ngabirano, An Analysis of Laws Inconsistent with the Right of Access to Information, HURINET-U.



The other laws that perpetrate secrecy include the Evidence Act⁹², Parliament (Powers and Privileges) Act,⁹³ and the Oaths Act cap 19.⁹⁴

The other barrier to the exercise and enjoyment of the right of access to information is the unnecessarily wide exemptions regime under the Access to Information Act, 2005. Whereas under Article 41 of the Constitution, that the only information exempted from access is that which is prejudicial to state security or infringes on another person's privacy, the exemptions regime under the Access to Information Act of 2005 is much broader. As has been mentioned above, the law restricts the right of citizens to access the records of cabinet and those of its committees, commercial information of a third party, confidential information, legally privileged records, and information likely to harm defence, security and international relations.

It is observed that whereas some of this information may fall under the category of information exempted from access under Article 41 of the Constitution, a broad spectrum of it goes far beyond the scope provided for. Unfortunately, information officers and in some cases, courts have applied these broad exemptions to deny genuine requests for information. In the Charles Mwanguhya case for instance, the court applied the exemption of third-party commercial information provided for under the Access to Information Act, 2005 to uphold the decision of the information officer denying the applicants access to the details contained in the Petroleum Sharing Agreements (PSAs). Although the decision of the court has been appealed and judgment is still awaited, it is highly doubtful whether it will pass constitutional muster.

The other barrier to the enjoyment of the right to information is the absence of an effective internal appeal mechanism. Under the law, a person who is aggrieved by the decision of an information officer is entitled to lodge a complaint with the Chief Magistrate.⁹⁵ While this is an important remedy, it is observed that unlike administrative remedies such as internal appeals, court processes are too often too technical and costly for the ordinary citizen. Secondly, current case backlogs within the court system make it impossible for aggrieved citizens to obtain a timely remedy where they feel that their requests for information have been unjustifiably denied. It is possible that by the time that the sought remedy is received, the purpose for which the information was needed would have been overtaken by events.

⁹² Evidence Act, Cap 6, Laws of Uganda.

⁹³ Parliament (Powers and Privileges) Act Cap 258, Laws of Uganda

⁹⁴ Oaths Act cap 19, Laws of Uganda.

⁹⁵ Section 37, Access to Information Act, 2005.



More critically, whereas it is a common practice for access to information laws to specify agencies responsible for their implementation, the Access to Information Act of 2005 does not. This being the case, there is no specific agency responsible for ensuring that all public bodies to which the law applies are fully compliant. Secondly, the absence of a dedicated agency has greatly limited opportunities for promotion of the law amongst both public officials and citizens.⁹⁶

Table 5: Summary of Findings

	YARDSTICKS OF ASSESSMENT	STATUS OF IMPLEMENTATION
1.	Citizens access to information	Partially Implemented
2.	Existence of Up-to-date manual of functions & index	Not Implemented
3.	Publication of automatically available information	Not Implemented
4.	Functionality of Information Officers	Partially Implemented
5.	Submission of Annual Reports to Parliament	Not Implemented
6.	Implementation Timelines	Not implemented

7.0 Conclusion & Recommendations

It is a fundamental finding of this study that despite Uganda being one of the very first few African countries to enact a dedicated access to information law in 2005, implementation of this law has been extremely sluggish. In particular, the Access to Information Regulations which were required to be passed by the Minister to operationalize the only came into effect six years later in 2011. In the absence of the Regulations, the ability of citizens to access information using the law was extremely limited. Many MDAs declined to entertain information requests on the basis that there was no guidance as to the format in which such information should be requested for and provided as well as the fees payable to access different categories of records.

In the aftermath of the Regulations, citizens access to information is severely curtailed by constant denial of information requests by MDAs based on technicalities many of which are out of the scope of the law. This has resulted into citizen frustration with the process and currently the number of formal information requests made under the Act has declined tremendously. Secondly, a significant number of citizens currently prefer to utilize informal platforms such as twitter to request for information from MDAs.

⁹⁶ Interview with Member of Uganda's Coalition on Freedom to Information, Kampala, July 31, 2023.



Even then, the information sought through such platforms is usually very basic and not the kind that can be used to hold these agencies accountable. This defeats the whole essence of the law which is to promote accountability and an efficient and effective government.

With respect to the mandates set under the law, none of the MDAs considered under this study has published a manual of functions and a description of the categories of records automatically available in accordance with the provisions of the law. The functionality of information officers is also limited with the result that a majority of them have reneged on their obligations under the law. Of even greater concern, none of the evaluated MDAs has presented to Parliament an annual report detailing the number of requests for access to information made to them as required under the law.

Moreover in addition to the breaches stated above, the law itself is problematic as it contains several barriers that make it difficult for citizens' to exercise and enjoy the right to access information in possession of the state. These include the existence of an unjustifiably wide and broad exemptions regime, underdeveloped appeals mechanism, absence of a clear and dedicated implementation agency responsible for implementation of the Act as is the case in other countries with access to information laws. Considering this, it is recommended as follows,

A. Government of Uganda (GOU)

- Align the Access to Information Act, 2005 with the recently passed Government of Uganda Communications Strategy. Under the strategy, MDAs and local government are required to appoint communication officers with a mandate to coordinate all communications including access to information requests. However, these functions are reserved for Chief executives under the Access to Information Act. In light of this development, the law should be amended to formally include and to clearly define the specific roles of communication officers under the law.
- Related to the above, decisions of Communication Officers should be appealable to the Chief executives. This will help to create an internal remedy where citizens are aggrieved with the decisions of the Communications Officer.
- Ministers should urgently comply with their obligation to present annual reports to Parliament giving details of information requests made to all public bodies in their various ministries, how many were granted and reasons for those which were declined. The annual report can also be presented as part of the annual Ministerial Statements.



- Repeal all restrictive laws that seek to unjustifiably limit the citizens' enjoyment of the right to access information in possession of public bodies. Laws such as the Official Secrets Act contradict the right to access information as protected under Article 41 of the Constitution and Section 5 of the Access to Information Act, 2005.
- Consider amendments to the Access to Information Act 2005 to reduce on the current broad scope of exemptions in the law. As per Article 41 of the Constitution, only that information that is prejudicial to the security of the state or that which infringes on another person's privacy can be denied. Many of the current exemptions in the law go over and above this threshold.
- Given the importance of enhanced citizen access to information, and current challenges in the implementation of the Access to Information Act and the Regulations made thereunder, the government of Uganda should consider establishment of a dedicated agency with a mandate to among others enforce the compliance of MDAs and local governments with the law.
- Enhance punishments for noncompliance with the Access to Information Act and the Regulations made thereunder by those persons on whom duties have been imposed.
- Provide more funding towards the implementation of the Access to Information Act and Regulations made thereunder. In particular, the GOU should provide dedicated funding to MDAs and Local Government to enable them to obtain the capacity required to comply with their mandate under the Access to Information Act. Similarly, the GOU should invest more funds in the creation of public awareness on the right to information.
- Harmonize provisions relating to citizen access to wealth declarations in the Leadership Code Act 2022 with the Constitution and Access to Information Act, 2005. Rather than subjecting this to the discretion of the IGG, the standards in the constitution and Act should be applied.
- Fast track the finalization of the government Communication Policy while at the same time ensuring that the process is consultative. The Policy is necessary to streamline all government communication and harmonization of the various seemingly contradicting laws with the Access to Information Act, 2005.
- Translate the Constitution and the Access to Information Act into local languages.



- Provide sign language interpretation services for persons with speech and hearing impairment. This is key in ensuring that they enjoy the right to information without exclusion.

B. Parliament of Uganda

- Parliament should insist on Ministerial compliance with Section 42 of the Act i.e., submission of an annual report as one of the preconditions for consideration and approval of Ministerial Statements.
- The Information Communication and Information (ICT) Committee of Parliament should reign on Ministries which fail to submit either separate annual reports or as part of their Ministerial Statements a record of information requests received and processed by public bodies under them.
- All MDAs which are yet to develop a Manual of Functions and Index of records should be given a strict timeline to comply. Once in place, the manuals should be updated every two (2) years.

C. MDAs

- Urgently publish a manual of functions and index of records. If they opt to instead rely on a client Charter, it should contained all the details required of the manual under the Access to Information Act , 2005
- Invest in trainings of officials on the access to information Act and importance of the right of citizens to access information held by public bodies.
- Ensure that organizational websites are regularly updated and well maintained to enable citizens access timely and accurate information.
- Design websites that are accessible, friendly and easy to navigate by Persons with Disabilities (PWDs). This is important for inclusion and equal enjoyment of theright to information by PWDs.
- Prioritize the use of local radio stations in dissemination of public information. This is more effective for especially rural populations that rely on such stations for news and a majority of whom speak local languages.



D. Civil Society Organisations

- Dedicate more efforts towards the creation of public awareness on citizens' right to access information in possession of public bodies. As part of this, citizens should be informed about the role of access to information in the creation of efficiency in government, promotion of transparency and accountability and the fight against corruption.
- Enter collaborations with the different MDAs in order to explore opportunities for collective promotion of the right of access to information.
- Advocate for and pursue amendments to the Access to Information Act 2005 to among others limit current restrictions to the enjoyment of the right of access to information, create an elaborate internal appeal mechanism and establish a dedicated agency to oversee the implementation of the law.



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