

The Right to Information in Tanzania: Insights on the Laws, Policies and Practices



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Introduction

The rights to information are enshrined in almost all constitutions and national laws of democratic countries globally. These rights entail granting full freedom for the public to access, acquire, use and benefit from processing information held by public institutions and non-state actors. Availability of and unfettered access to information in the public domain promotes transparency and fosters accountability in governance. Additionally, it contributes a great deal in economic, social and political development.

This briefing paper gives a synopsis of the status of the right to information (RTI) in Tanzania. The analysis in this paper is based on:

- The policy and legislative frameworks providing for freedom of information and access to information in Tanzania.
- Information and Communication Technology (ICT) as an enabler of the promotion and removal of barriers to access information.
- Critical analysis of the implementation and enforcement of the right to information in Tanzania.

A combination of literature review and stakeholder consultations was used in developing this paper. First, select laws, policies and reports were analysed. Second, stakeholder consultations were conducted through face-to-face interviews and administering of questionnaires. The questionnaires, which were composed of guiding and open-ended questions, were administered in Dar es Salaam to pre-selected stakeholders who represented different groups and key actors either implementing or enforcing the right to information in Tanzania. A focus group discussion was also held with select media and civil society actors to understand the terrain of access to information in Tanzania and how ICT could be used to advance access to information and government openness. See Annex 1 for the list of survey respondents, Annex 2 for the focus group discussion participants, and Annex 3 for the questionnaire used to collect data.

It is not the scope of this paper to dwell on the freedom of assembly and freedom of association. This is put as a caveat because these factors are, impliedly, seen as pre-requisites for citizens to exercise their right to information.

It is important to note that wherever the name Tanzania is used in this paper, it refers to Tanzania Mainland. It does not cover the semi-autonomous island of Zanzibar. This is because the laws which are enacted in Tanzania Mainland are not enforceable in Zanzibar, except for a few which state categorically that they will be operationalised in both parts of the United Republic of Tanzania.

Contextual background

Tanzania has a population of approximately 45 million people, of which 71% reside in rural areas. The adult literacy rate (15 years and above) stands at 78%.¹ In September 2014, the Tanzania Communications Regulatory Authority (TCRA) reported 30.6 million fixed and mobile phone subscribers representing a teledensity of 68 phone connections per 100 inhabitants. In the same period, internet usage was estimated at 9.3 million users.²

Back in 2005, Tanzania had an estimated 42 registered newspapers.³ As of 2012, TCRA reported that there were 86 radio outlets and 28 TV stations.⁴ According to an InterMedia Survey report of March 2011, there were close to 47 FM Radio stations, 537 registered newspapers and a dozen television stations in Tanzania.⁵ In July 2012, when awarding the best bloggers in Tanzania, Kelvin Twisa of Vodacom Tanzania said there were about 5,000 Tanzanian blogs discussing different themes.⁶

Tanzania is a party to a number of international and regional agreements which provide for commitments and obligations for access to information and the right to information. These agreements recognise the right to information as a tenet of democratic governance. They include the International Covenant on Civil and Political Rights (ICCPR) of 1966, Universal Declaration of Human Rights (UDHR) of 1948, Declaration of Principles on Freedom of Expression in Africa of 2002 which affirms the right to information in Africa, and the African Charter on Human and Peoples' Rights (ACHPR) of 1981.

In 2011, Tanzania was among six African countries eligible to join the Open Government Partnership (OGP), a multilateral initiative that aims to “secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance”.⁷ Tanzania and other countries eligible to join the OGP had “demonstrated commitment to open government” in the key areas of budget transparency, access to information, asset disclosure by politicians and officials, and citizen engagement. At the time, the other eligible African countries were Kenya, Liberia, Ghana, South Africa and Uganda.

¹ National Bureau of Statistics, *The United Republic of Tanzania, Basic Demographic and Social Economic Profile 2014*, http://www.nbs.go.tz/nbs/index.php?option=com_content&view=article&id=502:basic-demographic-and-socio-economic-profile-keyfindings&catid=57:censuses&Itemid=82

² Tanzania Communications Regulatory Authority (TCRA), *Quarterly Telecom Statistics, September 2014*, <https://www.tcra.go.tz/images/documents/telecommunication/telcomStatsSept14.pdf>

³ Africa Media Development Initiative, *Tanzania Country report*, http://downloads.bbc.co.uk/worldservice/trust/pdf/AMDI/tanzania/amdi_tanzania7_newspapers.pdf

⁴ TCRA, *Broadcasting Services Statistics*, <https://www.tcra.go.tz/images/documents/broadcasting/broadcastingStatistics.pdf>

⁵ InterMedia, (2011), *Tanzania Media Environment: Current Access, Potential for Growth and Strategies for Information Dissemination*, p. 7. SEE also http://audiencescapes.org/sites/default/files/Tanzania%20Media%20Environment_0.pdf

⁶ Vodacom Tanzania Recognises 10 Best bloggers, http://www.tech360magazine.com/2012/07/vodacom-tanzania-recognizes-10-best_31.html

⁷ Open Government Partnership, <http://www.opengovpartnership.org>

The Policy and Legislative Framework

The Constitution of the United Republic of Tanzania, 1977

The right to seek, obtain and disseminate information is provided for under Article 18 of the Constitution of the United Republic of Tanzania of 1977. The Article states that: -

*“Every person – (a) Has a freedom of opinion and expression of his ideas; (b) Has a right to seek, receive and/or disseminate information regardless of national boundaries; (c) Has the freedom to communicate and a freedom with protection from interference from his communication; and (d) has a right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society”.*⁸

Without a specific law on the right of access to information that would compel the state to disseminate information in its custody more frequently or as and when requested, Tanzanian citizens hardly enjoy these constitutional guarantees.⁹ Efforts to have an access to information law have stalled since 2006, when the Freedom of Information Bill (2006) was first introduced by the government.

Since 2011, the Tanzanian Constitution has been going through a review process. The Proposed Draft Constitution of the United Republic of Tanzania¹⁰ contains more elaborate and explicit provisions on freedom of expression, freedom of information and media freedom. These are stipulated under Articles 29 and 30 respectively.

Article 29. – (1) Every person (a) has a freedom of (i) opinion and expression of his ideas; (ii) communicating and also has the right of not being interfered with in his communication; (iii) innovativeness and artistry; (iv) academic and scientific research; and

(b) has a right to be informed at all times of: (i) various important events of life and activities of the people and also of issues of importance to the society. (ii) execution by the state authority of national policies and social development activities; and (iii) other matters of social importance.

Article 30. - (1) every person has the freedom to: (a) seek, receive and use news and information and disseminate that information; and (b) start mass media and other means of information dissemination regardless of national boundaries.

⁸ The Constitution of the United Republic of Tanzania of 1977 as amended from time to time, 2008 version.

⁹ Tanzania Information Access Challenge, http://www.tanzaniagateway.org/docs/tanzania_information_access_challenge.pdf

¹⁰ Tanzania Draft Constitution, http://www.constitutionnet.org/files/tanzania_draft_constitution_2013-english.pdf

(2) *The mass media shall be free and shall also have: (a) the right to receive, use and disseminate the information which they get; (b) the responsibility of: (i) dissemination of news and information to the people; and (ii) respecting and protecting human dignity, respect, freedom and esteem of the people against the information that they use, prepare and disseminate.*

(3) *the government and its institutions, civil societies and individuals shall have the responsibility of providing information to the public about how they discharge their responsibility.*

The proposed constitution has been commended as a step forward in promoting access to information in Tanzania. However, as with the existing Constitution under Article 18, the two proposed new articles if implemented will remain subject to contradictory provisions in other existing legislation, unless they are backed by a specific law on the right of access to information with specific regulations on how this information can be accessed by citizens.

Whereas the constitution review process initially included open stakeholder consultations through the Tanzania Constitutional Review Commission (TCRC),¹¹ according to focus group discussion participants, as of December 2014, the final draft of the constitution was yet to be publicised by the government due to a reported lack of funds to print and disseminate copies. The country is expected to have a referendum on the new constitution in April 2015.

Freedom of Information Bill (2006)

As mentioned earlier, in 2006, the Tanzania Ministry of Information released a Freedom of Information Bill (2006), calling for stakeholder reviews. Since then, however, the government has dragged its feet on passing it into law, even after receiving numerous comments. In its current form, the Bill does not have the national emblem or Bill supplement number and it has never been published in the government gazette as an official Bill. It has not yet been submitted to Parliament for first reading, and it appears the government has lost interest in the Bill after all.

The Bill contains provisions for forms of access to information, right to grant access, refusal of information, period within which information requests should be responded to, protection of whistle blowers, the time limit for determining requests, protection of sources and the right to appeal. Section 16 of the Draft Bill proposes a period of 21 days for release of information requested by citizens.¹²

Section 16. – “(1) A request for access must, ... , as soon as reasonably possible, but in any event within twenty one days after the request is received, either be granted or refused, as the case may be; (2) The requester shall be informed immediately in writing of a decision under subsection (1); (3) If the request for access is granted, the decision notice shall contain details relating to any fees to be paid by the requester and the form in which access will be given, as well as details about any right of appeal; (4) If the request for access is refused, the decision notice shall state adequate reasons for the refusal or deferment, including the provisions of this Act relied upon, as well as details about any right of appeal; and (5) If a body fails to issue a decision notice within the period contemplated in subsection (1), the body is, for the purposes of this Act, regarded as having refused the request.”

¹¹ Draft Constitution, Citizens' opinions statistics,

http://www.bungemaalum.go.tz/files/publications/attachments/TAKWIMU_ZA_UKUSANYAJI_WA_MAONI_YA_WANANCHI_sw.pdf

¹² The United Republic of Tanzania, (2006), Draft Bill for the Freedom of Information,

http://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/tanzania/draft_foi_bill_2006.pdf

Activists have cited a lack of political will to enact the Freedom of Information law, stating that since 2006, when the bill was first introduced, stakeholders have since submitted a substitute bill but the government has “remained silent on the issue”.¹³ At the time Tanzania joined the OGP in 2011, President Jakaya Kikwete promised that the country would enact the law by October 2014. During the OGP meeting in London in September 2014, the President made a renewed promise to pass the law by February 2015.¹⁴

Meanwhile, analysts observe that the absence of an access to information law may put many internet users at risk of criminal charges given out-dated legislation such as the National Security Act of 1970 that severely limit the publication of government information.¹⁵

¹³ MISA-TAN, (2010), *Report to the Higher Commissioner for Human Rights submitted for Universal Periodic Review of Tanzania*, <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/TZ/JS6-JointSubmission6-eng.pdf>

¹⁴ JK: *Freedom of Information Act Ready in 2015*, *The Citizen*, <http://www.thecitizen.co.tz/News/Freedom-of-information-Act-ready-in-2015/-/1840392/2465916/-/pg6a8/-/index.html>. See also: <http://www.misa.org/misa-chapters/tanzania/itemlist/category/160-tanzania>.

¹⁵ CIPESA, (2014), *State of Internet Freedoms in Tanzania 2014: An investigation into the Policies and Practices Defining Internet Freedom in Tanzania*, <http://opennetafrika.org/wp-content/uploads/researchandpubs/State%20of%20Internet%20Freedoms%20in%20Tanzania%202014.pdf>

Other Laws Impacting Freedom of Information

The Newspapers Act, 1976 ¹⁶

While the Newspapers Act of 1976 regulates the print media in Tanzania, it has a very big impact on peoples' enjoyment of the right of access to information. By defining and criminalising publication of false news, seditious publications, and prohibition of the importation of certain publications, among other offences, the Act effectively controls the type and classes of information accessible by the citizens.

According to the Newspapers Act Sections 26 and 31, a publication is seditious if it (a) brings into hatred or contempt or excites disaffection against the lawful authority of the United Republic or the Government; (b) excites any of the inhabitants of the United Republic to attempt to procure the alteration, otherwise than by lawful means, of any other matter in the United Republic as by law established; (c) bring into hatred or contempt or to excite disaffection against the administration of justice in the United Republic; (d) raise discontent or disaffection amongst any of the inhabitants of the United Republic; or promote feelings of ill-will and hostility between different categories of the population of the United Republic.¹⁷

Further, under Section 36 and 37 of this Act, publication of a false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace and the incitement of violence is prohibited respectively. Persons found liable of these offences are punishable with a fine not exceeding TZShs 15,000 (US\$ 9) or imprisonment for a term not exceeding three years or both.

The provisions cited above have been used by the Ministry of Information to categorise some information published by newspapers and vibrant non-governmental organisations as seditious and to ban the newspapers which published the information. For example, on July 30, 2012, the Tanzania government issued an indefinite ban on the MwanaHalisi newspaper through General Notice No. 258, citing Section 25 (1) of the 1976 Newspaper Act. The government alleged that articles published in three editions of the newspaper in July 2012 were "seditious, inciting, promoted violence and were likely to jeopardise peace in the country."

The National Security Act, 1970

The National Security Act of 1970 gives the government discretionary powers to classify information and thereby regulate access to it. Section 5(1) of the Act states that "any person who communicates any classified matter or causes the leakage of such classified matter to any person

¹⁶Tanzania Newspapers Act, 1976, <http://polis.parliament.go.tz/PAMS/docs/3-1976.pdf>

¹⁷ United Republic of Tanzania, (1976), *Newspapers Act, sections 26 and 31*

other than a person to whom he is authorised to communicate it or to whom it is in the interests of the United Republic his duty to communicate it commits an offence and shall be liable on conviction to imprisonment for a term not exceeding twenty years”.

The lack of objective criteria of classifying information in the National Security Act prevents any fair determination of what constitutes national interest. Once information is classified as per the provisions of this Act, it is accessible to only a few government employees who have been categorised as “authorised officers”.¹⁸ This provision excludes the entire citizenry and most government officers from accessing classified information.

If an unauthorised officer needs to review a classified document to complete his work, he must either become authorised or have the document declassified, and both are long and complicated processes. Authorisation comes into being when a person applies to the responsible Minister to be authorised to access classified documents. When the permission is granted in writing by the Minister, the person who applied for authorisation becomes an authorised person.

The classification of documents was put to the test in 1997 at the High Court of Tanzania, at Dar es Salaam, in the case of *Adam Mwaibabile v. Republic*. In lower court, Mwaibabile, a journalist, was alleged to have violated the National Security Act by possessing a classified government document. He was sentenced to a year in prison. The confidential document referred to was a copy of a letter from the Regional Local Government Officer to the Songea Town Director stating that Mwaibabile should not be granted a licence for his stationery business for the year 1995/1996. The High Court held that the directive was not a government document as defined in the National Security Act on the grounds that it was not the duty of the government to refuse the granting of business licenses to citizens.¹⁹

The Public Service Act, 2002

The Public Service Act²⁰ of 2002 prohibits unauthorised disclosure of information by members of the Public Service Commission and Public Servants.²¹ Under section 18 (2) of this Act, both the person disclosing information and the person receiving information are criminally liable for an offence. This has made it difficult to obtain information from public offices. The law is silent on the Oath of Secrecy. It does not state who is obliged to take oath of secrecy and it does not provide obligations of those who take the oath of secrecy. The majority of civil servants in Tanzania do not take the oath of secrecy, except a few with special duties such as judges.

The Public Leadership Code of Ethics Act, 1995²²

The Public Leadership Code of Ethics Act of 1995 provides the categories of public leaders and underscores the principles and ethical values which they should abide by. Generally, this Act does not contain any provisions which curtail the freedom or right to access information to citizens. But the Regulations made under this Act – Public Leadership Code of Ethics (Declaration of Interests, Assets and Liabilities) Regulations²³ – limit access and sharing of information.

¹⁸ SEE section 2 of the National Security Act, Cap 47. “An Authorized Officer in relation to any provision of this Act, means a person authorized by the Minister to exercise the powers or perform the duties conferred or imposed by such provision”.

¹⁹ Article 19, *Media Law and Practice in Southern Africa*, www.article19.org/data/files/pdfs/publications/tanzania-media-law-and-practice-in-southern-africa.pdf

²⁰ The Public Service Act, 2002, <http://bunge.parliament.go.tz/PAMS/docs/8-2002.pdf>

²¹ Section 18 (1) of the Public Service Act of 2002,

²² Code of Ethics, <http://polis.parliament.go.tz/PAMS/docs/13-1995.pdf>

²³ Government Notice no. 261 of 2001

According to Regulation 6 of the Regulations, any member of the public may inspect the assets Register upon satisfaction of the conditions that a person wishing to make inspection has lodged with the Commissioner a complaint against a public leader; on his assessment, the Commissioner is satisfied that the complaint is genuine, relevant and was made in good faith; and an inspection fee of TZShs 1,000 (US\$0.50) has been paid.

Usually public leaders are required to declare to the Ethics Secretariat (Ethics Commissioner) assets which are owned by themselves, their spouse or their unmarried minor children. These include cash and deposits in a bank or other financial institution; treasury bills and other similar investments in securities of fixed value issued or guaranteed by the Government or agencies of the government; interest on money deposited in a bank, building society or financial institution. Public officials are also required to declare dividends or other profits from stocks or shares; interests in businesses; and farms under commercial operation, among others. Assets declaration is done once at the end of each year using a prescribed form.

Regulation 7 prohibits any disclosure of information obtained from the register to other persons. It states that, “the information obtained from the Register will be misused if it is used wholly or partly for publication or broadcast to the media or is communicated to the general public.” This restriction overrides the overall purpose of disclosure of information as public leaders cannot be accountable to people.

The National Information and Communications Technologies Policy, 2003

Despite the rapid improvements in Information and Communications Technology (ICT), its use is still limited in Tanzania due to factors such as low literacy, limited network and infrastructure coverage in rural areas and high costs of access to ICT equipment. The broad objectives of the National ICT Policy are to provide a national framework that will enable ICT to contribute towards achieving socio-economic growth and good governance, and to transform Tanzania into a knowledge-based society.²⁴ The policy makes no direct reference to access to information through ICT.

Although the National ICT policy does not expressly provide for access to information, it has indirectly contributed to the establishment of networks and platforms for sharing and accessing information between the state and citizens. This has been achieved through efforts such as extending affordable ICT access to rural communities and government authorities’ ICT utilisation and promotion such as through online portals, blogs and social media.

The National Telecommunications Policy, 1997

The National Telecommunications Policy was drafted to accelerate development of an efficient telecommunications sector that can provide a national info-communication infrastructure and access to modern telecommunication technologies by all sectors of the economy and all segments of the population.²⁵ The policy facilitates and promotes sharing and access to information in Tanzania through regulation, fair competition, enforcement of standards, rural connectivity and human resource development in telecommunications.

²⁴ *National ICT Policy, 2003*, <http://www.mst.go.tz/index.php/joomlaorg/national-ict-policy-2003>

²⁵ *United Republic of Tanzania, (1997), National Telecommunications Policy, p. 2*

Access to Information in Tanzania – The Practice (Including ICT as an enabler)

Over the years, Tanzania has seen various efforts by different actors to promote, advocate and put into practice the tenets of access to information. Without a specific law providing for the mechanisms of access to information, focus group discussion participants reported that the general practice for making information requests is through a written letter to the permanent secretary or information officer of a government ministry, department or agency (MDA). However, without a clear mandate on how to deal with information requests, officials may or may not respond to the written requests.

The MDAs occasionally and spontaneously release information to the public domain through websites and published reports including in English and the native language Swahili. There are however, also other government MDAs whose websites are not regularly updated and thus further place limitations on the provision of information in the public domain.

Following its joining of the OGP, the Tanzania government opened a website, www.opengov.go.tz, to spearhead open governance, including the release of open data on priority sectors of health, education and water. The OGP website was opened in order to promote transparency, empower citizens, fight corruption and encourage use of new technologies to improve governance in Tanzania. The website contains relevant information regarding implementation of OGP but has scanty information on water and health sectors which were priority access sectors under OGP.

Also, the Parliament of Tanzania established a website²⁶ that provides access to several legislative documents. It provides information about Members of Parliament and the contribution they make in parliamentary sessions, proceedings, a calendar of events, committee reports, bills and the parliament timetable.²⁷ The website also has a section which allows citizens to send questions to the Speaker but it could not be established how many questions have been sent and whether they received responses.

Moreover, in 2011, the government instituted the E-Government Agency (EGA) in an effort to bring more government services online.²⁸ The agency maintains the Tanzania government portal on public services. Under the section 'Facts and Figures', the agency provides PDF documents with statistics from various MDAs. As of January 2015, only 51 documents had been uploaded, dating from as far back as 1997.²⁹

In 2013, the EGA developed another centralised portal for the Tanzania government.³⁰ Similar to www.egov.go.tz, the www.tanzania.go.tz portal also provides access to government information

²⁶ The website for the Parliament of Tanzania , <http://www.parliament.go.tz>

²⁷ <http://newpolis.parliament.go.tz>

²⁸ E-Governance Agency Web Address , <http://www.ega.go.tz>

²⁹ Tanzania Government Portal, Facts and Figures, <http://www.egov.go.tz/home/pages/75/>

³⁰ The central government portal , <http://www.tanzania.go.tz/>

including on socio-economic matters such as legal, agricultural, manufacturing, water, education, employment, health, forestry and land use in English or Swahili. The portals run by EGA provide detailed information on various matters relating to public services and also link to various government websites which provide public service information.

The government also runs the Wananchi (citizens') e-Government portal (www.wananchi.go.tz). The portal, maintained by the Department of Information at the Ministry of Information, Youth, Culture and Sports allows citizens to file queries, opinions, complaints and feedback to public bodies. Citizens are able to track the status of their submissions. There are no reports of how many complaints have been received and how they have been handled. Also, there are no reports of criticism or praises of the Wananchi portal.

Meanwhile the National Audit Office (<http://nao.go.tz/>) website was created by the government to disclose information to the public on all public audited financial reports. This is geared towards increasing transparency and accountability of public bodies.

Through the Tanzania Extractive Industry Transparency Initiative (TEITI), the government publishes annual reconciliation reports for revenues from extractive companies.³¹ It also publishes international reports which cover extractive industry issues that relate to the extractive industry in Tanzania.

Overall, public sector efforts are fostering improved government openness and accountability.³² For instance, the availability of the Reports of the Controller and Auditor General (CAG) online³³ has recently triggered public dialogues both online (social media) and in the Tanzania Parliament on mismanagement of public funds.³⁴ These have resulted into the resignation and demotion of some public leaders.³⁵

From the focus group discussions, the critical MDAs that stakeholders indicated should be a priority to open up are: the Ministry of Energy and Minerals, Ministry of Health and Social Welfare, Ministry of Communication, Science and Technology and the Ministry of Information, Youth, Culture and Sports.

Regarding the potential of ICT as an enabler of increased openness, stakeholders pointed to radio as the most appropriate medium for government to use to provide information to citizens. Print media and websites were deemed ideal for publishing reports but their low reach was a limiting factor. The potential for using mobile technology to reach the population was also mentioned. Bulk SMS and automated calls focusing on sectoral issues were among the suggestions. Meanwhile, non-ICT based means of information disclosure by the government through notice boards and public meetings³⁵ should remain in place.

³¹www.teiti.or.tz

³² See *The Citizen*, 4 ministers axed over 'Tokomeza Ujangili', <http://www.thecitizen.co.tz/News/4-sacked-over-Tokomeza-Ujangili/-/1840392/2120620/-/7q8ff1/-/index.html>, and Kizito Makoye, *Anti-Poaching Operation Spreads Terror in Tanzania*, <http://www.ipsnews.net/2014/01/anti-poaching-operation-spread-terror-tanzania/>

³³ See, <http://nao.go.tz/?cat=17>; <http://nao.go.tz/?cat=34>; <http://www.jamiiforums.com/jukwaa-la-siasa/762449-jf-exclusive-cag-report-on-iptl-tegeta-escrow-account.html>; *Escrow account report on PAC lap*, <http://www.tanzaniatoday.co.tz/news/escrow-account-report-on-pac-lap>; and <http://www.parliament.go.tz/index.php/news/article/346>

³⁴ See, [Http://Nao.Go.Tz/?Cat=17](http://Nao.Go.Tz/?Cat=17), Interview With Mr. Jamal, Assistant Director - Media Coordinator Ministry of Information and Communications.

³⁵ See, Alawi Masare, David Malingha, *Tanzania's Attorney-General Resigns Over Energy Graft Scandal*, <http://www.bloomberg.com/news/2014-12-17/tanzania-s-attorney-general-resigns-over-energy-graft-scandal.html>; Fumbuka Ng'wanakilala, *Tanzanian attorney general resigns over graft accusations*, <http://www.reuters.com/article/2014/12/17/tanzania-corruption-idUSL1N0U109120141217>. See also, *Tanzania parliament votes to sack ministers over corruption*, <http://mg.co.za/article/2014-11-30-tanzania-parliament-votes-to-sack-ministers-over-corruption>; *Tanzania's Land and Housing Minister sacked for corruption*, <http://www.citifmonline.com/2014/12/23/tanzanias-land-housing-minister-sacked-corruption/>

Media Experiences in Access to Information

Despite recorded growth in the sector, the Tanzanian media industry is not devoid of interference as a platform through which information is acquired and shared. Over the years, there have been cases of banning some newspapers, for instance Mwanahalisi in July 2012, the suspension of others like Mwananchi for 90 days in September 2013, and harassment and attacking of some journalists over allegations of seditious content.³⁶

Mandolin Kahindi, a journalist with Midundo Radio, explained that it is often difficult to obtain information from officials and encouraged practitioners to seek for alternative sources particularly on government websites. However, Kahindi pointed out that he had once written a story relying on information available on the website of the Tanzania Electric Supply Company (TANESCO). After the story was published and during follow up interviews, the institution denied the information stating that “you can’t rely on information on the website.”

In his experience, Peter George Nzunda of Transevents struggled to get statistics from the Surface and Marine Transport Regulatory Authority (SUMATRA). He needed the information for a research project and wrote a letter to the authority which was received and acknowledged with a stamp. However, efforts to follow up on his request were futile. Nzunda approached the line ministry, which contacted the authority and directed that the information be disclosed to him.

Other journalists stated that putting in requests physically or scheduling physical interviews with officials was sometimes more forthcoming for information. However, this avenue was hindered by the unavailability of officials in their offices. Most media players interviewed said they often found difficulties in sourcing information from MDAs – both information they requested for and that they expected to find on the websites or social media accounts of the MDAs.

³⁶ Interview with Andrew Marawiti of MISA–Tanzania and Steven Msechu from the Tanganyika Law Society, November 2014. Also, see the 2010 MISA-Tanzania Report at: <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/TZ/JS6-JointSubmission6-eng.pdf>

Civil Society Advocacy and Engagement Efforts in RTI in Tanzania

In 2010, the Media Institute of Southern Africa (MISA) Tanzania launched the access to information in Tanzania survey which assesses the most transparent and most secretive government institutions in the country. Each year, MISA Tanzania selects eight institutions for study and the findings are used as a lobbying tool for the establishment of an access to information law. Assessments are based on, among others, information availability on websites, phone calls and responses to written letters requesting for information. In 2013, MISA named the National Bureau of Statistics as the most transparent and the Judiciary as the most secretive.

“The initial idea was to name and shame institutions so that they are forced to open up,” said Sengiyumva Gasirigwa of MISA Tanzania. “However, institutions now take it as a challenge. The Judiciary came and picked up the padlock (award for secrecy) and acknowledged that they are secretive but hope to do better going forward,” he added. In its inaugural year, MISA Tanzania awarded the certificate of openness to the President’s Office and the “padlock” to the Ministry of Lands, Housing and Human Settlement.³⁷

Meanwhile, in a campaign to advance the right to information, civil society organisations have formed a Coalition on the Right to Information (CORI) for collaborative efforts to persuade the government to enact the Right to Information law. The coalition consists of 11 members: Media Council of Tanzania (MCT), Legal and Human Rights Centre (LHRC), Tanzania Citizens Information Bureau (TCIB), MISA Tanzania, Tanganyika Law Society (TLS), Media Owners Association of Tanzania (MOAT), Tanzania Women Media Association (TAMWA), National Organisation for Legal Assistance, Sikika (The Right to Health in Tanzania) and Tanzania Editors Forum (TEF).

CORI, whose secretariat is housed in the offices of MCT, has organised a number of campaigns and workshops, including with policy makers on advancing freedom of information in Tanzania. Through a campaign dubbed “Friends of Media”, CORI successfully engaged members of the Constituent Assembly to incorporate elaborate provisions on access to information in the Draft Constitution Bill (See Articles 29 and 30 as detailed above). To-date, the Coalition continues work towards influencing the government to speed up efforts to enact the Freedom of Information law.

³⁷ MISA Tanzania Recognises Most Transparent and Most Secretive Government Institutions, http://www.tz.misa.org/index.php?option=com_content&view=article&id=70:misa-tanzania-recognizes-most-transparent-and-most-secretive-government-institutions-

Conclusion and Recommendations

There are various ongoing efforts by both government and civil society to address limitations on access to information, freedom of expression and media freedom in Tanzania. Indeed, the landscape is slightly changing with the introduction, development and adoption of initiatives which promote access to information and transparency through ICT.

However, there are barriers to accessing information that are exacerbated by claw-back clauses and interference with media freedom. It can be adduced that the right to information and access to information in Tanzania is scattered in different pieces of legislation and sometimes drafted, by and large, to suit the needs of particular national entities. There is pertinent need to enact a framework legislation that will provide for access to information and cater for all stakeholder information needs.

Thus, the following recommendations are put forward:

- It is recommended that laws which limit the right to information and access to information should be amended or repealed and replaced by new laws. These laws include the Newspapers Act of 1976, the Public Leadership Code of Ethics (Declaration of Interests, Assets and Liabilities) Regulations, and the National Security Act of 1970.
- The government should enact a Right to Information legislation to guarantee citizens access to public information.
- There is need to safeguard the rights and privacy of internet users through the enactment of cyber laws, including a data protection and privacy law.
- Government should undertake periodic review of key policies to reflect the emerging realities and developments.
- All government Ministries, Departments and Agencies should make use of information and communication technology outlets to release information into the public domain.
- The use of ICT should be promoted and public education on access to information should be given priority by all stakeholders.
- It is recommended that the Coalition on Right to Information and CSOs working on freedom of information should keep up the momentum in pushing the government to enact the Freedom of Information Law and amend other laws to make access to information more favourable to the citizens.
- Citizens should strive to actively demand from public institutions the information they need for social-economic development and for holding their leaders accountable.

Further Reading

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Annexes

Annex 1: List of Stakeholder Consultation Respondents

Name	Organisation	Role
Michael Mwambanga	Standard Attorneys	Advocate
Andrew Marawiti	Media Institute of Southern Africa (MISA) - Tanzania	
Steven Msechu	Tanganyika Law Society (TLS)	Programme Officer - Policy, Research and Publications
Pasience Mlowe	Legal and Human Rights Centre (LHRC)	Programme Officer Research Unit
Heri Ayubu	Oxfam Tanzania	Programme Officer
Bakari George	Tengeru Community Development Training Institute	Advocate – Lecturer
Jonathan Mndeme		Advocate
Debora Mushi	Tanzania Citizens' Information Bureau (TCIB)	
Kawau Orest	Channel Ten/Magic FM	Radio Presenter
Ally Possi	Centre for Human Rights, Pretoria	Advocate
Nevil Meena	Tanzania Editors Forum (TEF)	Executive Secretary (Journalist)
Samson Charles	East Africa Television (EATV)	TV Presenter
Said Rashid	Bagamoyo University	Lawyer
M. Jamal	Ministry of Information And Communication	Media Coordinator (Acting Director of Information)

Annex 2: Focus Group Discussion Participants

Name	Organisation
Peter George Nzunda	Trans Events
Musa Kisia	Trans Events
Ndenwgike	Trans Events
Seleman Shineni	New Habari
Gasirigwa G. S	Media Institute of Southern Africa (MISA) Tanzania
Mandolin Kahindi	Midundo Radio
Caroline Uliwa	The East African Citizen
Naamala Samson	Culture and Development East Africa (CDEA)

Annex 3: Questionnaire

**ASSESSING THE RIGHT TO INFORMATION IN TANZANIA
QUESTIONNAIRE (To be administered to all stakeholders)**

Name of respondent: _____

Institution represented: _____ **Region:** _____

District: _____ **Contact:** _____

1. What are your “positive” and “negative” views on the access to information in Tanzania?

2. What are your “positive” and “negative” views on the government openness?

3. Do citizens (be they CSOs, media or individuals citizens) routinely ask for information from Government Ministries, Departments and Agencies (MDAs)?

4. What are your views on media freedom in Tanzania? Please explain

5. Do the MDAs release information (and in good time) when citizens ask for it whether they quote or do not quote legal provisions on right to information)?

6. Do government departments “proactively” release their information into the public domain (such as their websites, as physical reports, to the media...) without being asked to do so?

7. Are there incidences of silencing those who exercise their right to information?

8. What are the main reasons why MDAs do not release a greater amount of public sector information into the public domain?

9. What initiatives are using Information and Communication Technology (ICT) to promote government openness and increased citizens' access to information?

10. What are some of the flagship initiatives (civil society and governmental) in promoting access to information?

11. What are the notable "successes" and "challenges" on the right to information in Tanzania?

12. Apart from what you answered above, please, provide any critical views you may have on the right to information in Tanzania.

This report was produced in the context of the Collaboration on International ICT Policy in East and Southern Africa (CIPESA)'s work in leveraging the Right to Information and Open Data to promote service delivery in East Africa with the support of Open Society Foundations.



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