



People's Access to Information and the Constitution of the Republic of Rwanda

Key Provisions

The Constitution of Rwanda, 2003 (as amended up to December 2005), guarantees the freedom of information subject to specific restrictions laid down by the law. Given below is a quick compilation of various constitutional provisions that –

- a) require public authorities and actors to furnish information to an individual or persons directly or
- b) have a bearing on the constitutional imperatives of transparency and accountability.

#	Chapter / Theme / Article
	<u>Title 1: The State and National Sovereignty</u>
	<p><u>Chapter 1: General Provisions</u></p> <p>Articles 1 and 2 lay down the fundamental principles that underpin the democratic system of governance in Rwanda. This is the firm basis on which people's right to information from the State and its agencies is grounded. If people are the source of sovereign power then those who exercise it must be accountable to the people. The people therefore have a right to know how the power of the State is exercised.</p> <p><i>"Article: 1. The principle governing the Republic is "government of the people, by the people and for the people"."</i></p> <p><i>"Article: 2. All the power derives from the people. No group of people or individual can vest in themselves the exercise of power.</i></p> <p><i>National sovereignty belongs to the people who shall exercise it directly by way of referendum or through their representatives."</i></p>
	<p><u>Chapter 2: Fundamental Principles</u></p> <p>Article 9 describes the fundamental principles to which the State of Rwanda has committed itself. The goals of securing equitable sharing of power, engendering the rule of law, ensuring equality of all Rwandans, promoting social welfare and the constant quest for solutions through dialogue and consensus require that people have access to information in all matters affecting them. A pluralistic democratic government with respect for the rule of law and dialogue requires sharing of information with the people.</p> <p><i>"Article: 9. The State of Rwanda commits itself to conform to the following fundamental principles and to promote and enforce the respect thereof:</i></p> <ul style="list-style-type: none"> - <i>fighting the ideology of genocide and all its manifestations; - eradication of ethnic, regional and other divisions and promotion of national unity;</i>



- equitable sharing of power;
- building a state governed by the rule of law, a pluralistic democratic government, equality of all Rwandans and between women and men reflected by ensuring that women are granted at least thirty per cent of posts in decision making organs;
- building a State committed to promoting social welfare and establishing appropriate mechanisms for ensuring social justice;
- the constant quest for solutions through dialogue and consensus.

Title II: Fundamental Human Rights and the Duties of the Citizen

Chapter 1. Fundamental Rights

According to Article 42 all rights enumerated below are available not only to citizens but also to foreign nationals legally residing in Rwanda except where the right is expressly available only to a Rwandan citizen.

1	<p><u>The right to know in the context of experimentation:</u></p> <p>Article 15 guarantees that no person shall be subjected to experimentation without obtaining his or her consent which is to be given in an informed manner. The modalities of securing such consent for experiments is to be determined by laws. Any person has the right to know why he or she is being subjected to any kind of experiment conducted by any person or body.</p> <p style="text-align: center;"><i>“Article: 15. No one shall be subjected to experimentation without his or her informed consent. The modalities of such consent and experiments are determined by law.”</i></p>
2	<p><u>The right to know in the context of legal proceedings:</u></p> <p>Article 18 guarantees the right of every one facing administrative or judicial proceedings to be informed of the nature of the case and the charges against him or her at all levels of the proceedings. This is an absolute right with no restrictions whatsoever. No information in any such proceeding affecting a person may be denied to him or her.</p> <p style="text-align: center;"><i>“Article: 18. The right to be informed of the nature and cause of charges and the right to defence are absolute at all levels and degrees of proceedings before administrative, judicial and all other decision making organs.”</i></p>
3	<p><u>The right to know in the context of the right to privacy:</u></p> <p>Article 22 guarantees every person the right to the privacy of his or her home. No searches may be carried out without the consent of the owner. Exceptions to this rule are to be determined by law. Consent requires that the person whose house is likely to be searched is informed of the grounds necessitating the search.</p> <p style="text-align: center;"><i>“Article: 22. A person’s home is inviolable. No search of or entry into a home may be carried out without the consent of the owner, except in circumstances and in accordance with procedures determined by law.”</i></p>



4	<p><u>The right to know in the context of marriage:</u> Article 26 prohibits any person from getting married without his or her free consent. This requires that every person who is to get married have adequate knowledge about the person and the circumstances leading to marriage.</p> <p><i>“Article: 26. No person may be married without his or her free consent.”</i></p>
5	<p><u>A child’s right to know :</u> Article 28 guarantees every child’s right to special measures of protection by his or her family and the State. Children in Rwanda must have the kinds of protection specified in both national and international law.</p> <p>According to Article 13(1) of the International Convention on the Rights of the Child (CRC) every child has the right to seek receive and impart information regardless of frontiers. Having ratified this Convention in 1991 Rwanda is duty bound to ensure that every child in Rwanda has the right to seek receive and impart information.</p> <p><i>“Article: 28. Every child is entitled to special measures of protection by his or her family, society and the State that are necessary, depending on the status of the child, under national and international law.”</i></p> <p><i>“CRC Article 13(1). The child 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 the child's choice.”</i></p>
6	<p><u>The right to know in the context of the right to property:</u> Article 29 guarantees every person’s right to property. This right may be interfered with in the public interest. However the taking away of private property is permitted only as per procedures determined by law. The owner is required to be given fair compensation prior to acquiring the property. The owner therefore has the right to know why his or her property is being taken away, what compensation has been determined and according to what criteria and rates. All of this information including the payment of compensation must be given prior to the acquisition of the property by the State or its agencies.</p> <p><i>“Article: 29. The right to property may not be interfered with except in public interest, in circumstances and procedures determined by law and subject to fair and prior compensation.”</i></p>
7	<p><u>Freedom of information:</u> Article 34 guarantees freedom of information and the freedom of the press. These freedoms may be interfered with only on grounds of public order, good morals, the right to reputation and privacy of one’s person and family. The conditions for exercising these freedoms are to be determined by law. The High Council of the Press is to act as an oversight mechanism for the protection and fulfilment of this right.</p> <p><i>“Article: 34. Freedom of the press and freedom of information are recognized and</i></p>



	<p><i>guaranteed by the State.</i></p> <p><i>Freedom of speech and freedom of information shall not prejudice public order and good morals, the right of every citizen to honour, good reputation and the privacy of personal and family life. It is also guaranteed so long as it does not prejudice the protection of the youth and minors.</i></p> <p><i>The conditions for exercising such freedoms are determined by law.</i></p> <p><i>There is hereby established an independent institution known as the “High Council of the Press.</i></p> <p><i>The law shall determine its functions, organization and operation.”</i></p>
8	<p><u>The right to know and the right to education:</u></p> <p>Article 40 guarantees every person the right to education without which the right to know loses most of its meaning. Primary education is free and compulsory. The State has a duty to ensure that people with disabilities receive appropriate education. A law is to determine the organisation of these efforts.</p> <p><i>“Article: 40. Every person has the right to education.</i></p> <p><i>Freedom of learning and teaching shall be guaranteed in accordance with conditions determined by law.</i></p> <p><i>Primary education is compulsory. It is free in public schools.</i></p> <p><i>The conditions for free primary education in schools subsidised by the Government are determined by an organic law.</i></p> <p><i>The State has the duty to take special measures to facilitate the education of disabled people. An organic law determines the organization of Education.”</i></p>
9	<p><u>The right to know and the right to health:</u></p> <p>Article 41 guarantees all citizens the right to health. The State is vested with the duty of mobilising people for activities aimed at promoting good health and to assist in the implementation of these activities. This kind of mobilisation and participation requires information to be given to citizens about health activities and issues. This is an enabling right to seek receive and impart information on matters relating to health.</p> <p><i>“Article: 41. All citizens have the right and duties relating to health. The State has the duty of mobilizing the population for activities aimed at promoting good health and to assist in the implementation of these activities.”</i></p>
<p align="center"><u>Chapter 2: The Rights and Duties of Citizens</u> and</p> <p align="center"><u>Chapter 2. Final Provisions (under Title XII. Final and Transitional Provisions)</u></p>	
10	<p><u>The right to know and participation in governance and access to public services</u></p> <p>Article 45 guarantees every citizen the right to participate in the government of the country either directly or through their representatives. The enjoyment of this right requires that people be informed of the affairs of government and its agencies and its policies and programmes. It also requires that the agenda of people who seek to be elected as their representatives be made known to the people. Citizens also have</p>



	<p>equal access to the public service in accordance with their competence and abilities. This requires that citizens be informed of the qualifications and competencies required for recruitment to every public office.</p> <p>Article 201 states that laws and regulations can enter into force only if they have been duly published in accordance with the procedures determined by law.</p> <p><i>“Article: 45. All citizens have the right to participate in the government of the country, whether directly or through freely chosen representatives in accordance with the law.</i></p> <p><i>All citizens have the right of equal access to public service in accordance with their competence and abilities.”</i></p> <p><i>“Article: 201. Laws and regulations can only enter into force after they have been duly published in accordance with the procedures determined by the law.”</i></p>
11	<p><u>The right to know about the Constitution and all laws in Rwanda</u></p> <p>Article 48 places a duty on every citizen to respect the Constitution and other laws and regulations of the country. The fulfilment of this duty is possible only when all laws, and regulations passed, issued or amended by the State or its agencies from time to time (including the judiciary) are available to people in the public domain without any restriction. This duty requires the State and its agencies to proactively put all information about laws and regulations in the public domain in a language and that people understand and in a manner that is easily accessible to people.</p> <p><i>“Article: 48. In all circumstances, every citizen, whether civilian or military, has the duty to respect the Constitution, other laws and regulations of the country.”</i></p>
12	<p><u>The right to know and political organisations</u></p> <p>Article 57 empowers registered political organisations to receive grants from the State. In other words the State funds political parties and organisations using the taxpayer’s money. So citizen taxpayers in Rwanda on account of being the source of the sovereign power of the State automatically will have the right to know what these political organisations are doing and how they have spent the funds granted to them.</p> <p><i>“Article: 57. Political organizations which are duly registered shall be given grants by the State.”</i></p>
<p><u>Title 4: Branches of Government</u></p>	
<p><u>Chapter 2. The Legislature</u></p>	
13	<p><u>The right to know and taxation</u></p> <p>Article 81 requires that no tax be imposed, modified, reduced or removed except by law. As Article 48 imposes a duty on all citizens to respect the laws of the land, the State and Parliament or any other agency have a duty to proactively inform people about the status of any tax old or new.</p>



	<p><i>"Article: 81. No taxation can be imposed, modified or removed except by law. No exemption from or reduction of tax may be granted unless authorised by law."</i></p>
<p><u>Chapter 3. The Executive</u> and <u>Chapter 6. The Public Service Commission (under Title VIII. Special Commissions and Organs)</u></p>	
14	<p><u>The right to know in Presidential elections</u> Article 100 requires that the results of the Presidential elections be proclaimed by the Supreme Court. This implies that the people have the right to be informed of the results of every such election.</p> <p><i>"Article: 100. The election of the President of the Republic shall be by universal suffrage through a direct and secret ballot with a simple majority of the votes cast. The Supreme Court proclaims the final results of the election."</i></p>
15	<p><u>The right to know in relation to the public administration</u> Article 126 requires that public servants be recruited through an objective, impartial and transparent system of recruitment. This requires that all information about such recruitment processes starting with the advertisement of vacancies up to the selection of candidates be placed in the public domain in a manner that is accessible to the people.</p> <p>Article 181 places the duty of establishing an objective, impartial transparent and equitable system of recruitment upon the Public Service Commission</p> <p><i>"Article: 126. Public servants are recruited, posted and promoted in conformity with the principle of equality of citizens, through an objective, impartial and transparent system on the basis of the competence, merit and integrity of applicants of both sexes."</i></p> <p><i>"Article: 181. The Public Service Commission shall be an independent public institution. Its responsibilities shall include the following:</i></p> <p>X X X</p> <p><i>3° the establishment of an appropriate system of recruitment of candidates which is objective, impartial, transparent and equitable for all;"</i></p>
<p><u>Chapter 4. Relationship between the Legislature and the Executive</u></p>	
16	<p><u>The right to know in the context of a state of siege or emergency</u> Article 137 requires that the President make public the reasons justifying the declaration of a state of siege or a state of emergency throughout or in any part of the country. Information about the rights and freedoms that are suspended during this period must also be given to the people.</p>



“Article: 137. A declaration of state of siege or state of emergency must give clear reasons which justify it, must specify the part of national territory to which it applies and its consequences, must indicate the rights, freedoms and guarantees provided by law which are suspended and the duration of the state of siege or state of emergency which may not exceed a period of fifteen days.”

Chapter 5. The Judiciary

17 The right to know in the context of the judiciary

Article 141 requires that all court proceedings be conducted in public unless in a particular case the court decides to hold the proceedings behind closed doors. This ensures that people have access to courts and can watch the proceedings when they are open. All court decisions must indicate the grounds for arriving at such a decision and must be delivered in open court. Even in cases where proceedings are held behind closed doors, the decision arrived at in such cases must be delivered in open court. The court’s decisions therefore will be available to any Rwandan citizen.

“Article: 141. Court proceedings are conducted in public unless a court determines that the proceedings should be in camera on the ground that a public hearing might have an adverse effect on general public order or would outrage public morals.

Every court decision shall indicate the grounds on which it is based, be written in its entirety and shall be delivered in open court.”

Title VII. National Defence and Security

Chapter 1. The National Police

18 The right to know vis-à-vis policing

Article 170 requires the National Police to exercise its authority over the entire national territory based on four fundamental principles. The fourth principle requires the National Police to inform Rwandans as to how it is fulfilling its mission. This mission is described in the first three principles of this Article as well as in Article 171.

“Article: 171. The National Police exercises its authority over the entire national territory.

It must serve the people particularly on the basis of the following principles :

1° safeguarding the fundamental rights guaranteed by the Constitution and the law;

2° harmonious collaboration between the National Police and the community which it serves;

3° the accountability of the National Police to the community ;

4° informing the population on how the Police is fulfilling its mission.”



Title VIII. Special Commissions and Organs

Chapter 2. The National Commission for Human Rights (NCHR)

19 The right to know and the NCHR

Article 177 vests the NCHR with the responsibility of educating people about their human rights. It also requires the NCHR to submit an annual report on the human rights situation in Rwanda including the investigation of complaints of human rights abuses lodged with it. Presumably this report will be made accessible to people in the public domain.

“Article: 177. The National Commission for Human Rights shall be an independent national institution. Its responsibilities shall include the following:

1° educating and mobilizing the population on matters relating to human rights;

2° examining the violations of human rights committed on Rwandan territory by State organs, public officials using their duties as cover, by organizations and by individuals;

3° carrying out investigations of human rights abuses in Rwanda and filing complaints in respect thereof with the competent courts;

4° preparing and disseminating an annual and other reports as may be necessary on the situation of human rights in Rwanda;”

Chapter 3. The National Unity and Reconciliation Commission (NURC)

20 The right to know and the NURC

Article 178 vests the NURC with the responsibility of educating people on matters relating to national unity and reconciliation. It also requires the NURC to submit an annual report on the situation of national unity and reconciliation in Rwanda. Presumably this report will be made accessible to people in the public domain.

“Article: 178. The National Unity and Reconciliation Commission is an independent national institution. Its responsibilities include particularly the following:

1° preparing and coordinating the national programme for the promotion of national unity and reconciliation;

2° putting in place and developing ways and means to restore and consolidate unity and reconciliation among Rwandans;

3° educating and mobilizing the population on matters relating to national unity and reconciliation;

4° carrying out research, organizing debates, disseminating ideas and making publications relating to peace, national unity and reconciliation;

5° making proposals on measures that can eradicate divisions among Rwandans and to reinforce national unity and reconciliation;



	<p>6° denouncing and fighting against acts, writings and utterances which are intended to promote any kind of discrimination, intolerance or xenophobia;</p> <p>7° making an annual report and such other reports as may be necessary on the situation of national unity and reconciliation.”</p>
<p><u>Title X. International Treaties and Agreements</u></p>	
21	<p><u>The right to know and international treaties entered into by Rwanda</u></p> <p>Article 190 requires that the text of all treaties conclusively adopted in the manner provided for by the Constitution be published in the official gazette.</p> <p><i>“Article: 190. Upon their publication in the official gazette, international treaties and agreements which have been conclusively adopted in accordance with the provisions of law shall be more binding than organic laws and ordinary laws except in the case of non compliance by one of parties.”</i></p>
<p><u>Title XI. Amendment of the Constitution</u></p>	
22	<p><u>The right to know in the context of a referendum</u></p> <p>Article 193 requires that certain proposals to amend the Constitution in relation to the term of the President or the democratic system of government or the constitutional regime is required to be ratified by a referendum. The amendment proposal will therefore have to be publicised prior to the referendum.</p> <p><i>“Article: 193. However, if the constitutional amendment concerns the term of the President of the Republic or the system of democratic government based on political pluralism, or the constitutional regime established by this Constitution especially the republican form of the government or national sovereignty, the amendment must be passed by referendum, after adoption by each Chamber of Parliament.”</i></p>

Compiled by Venkatesh Nayak for Commonwealth Human Rights Initiative, New Delhi.

Source: 1) Website of the Ministry of Defence, Government of the Republic of Rwanda:
http://www.mod.gov.rw/IMG/doc/Constitution_of_the_Republic_of_Rda.doc

2) Website of the Office of the United Nations High Commissioner for Human Rights
<http://www2.ohchr.org/english/law/crc.htm>

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