

## **UGANDA: IT'S YOUR RIGHT TO GET INFORMATION**

*Vincent Babalanda, The Monitor (Kampala)*  
*October 18, 2006*

Freedom of access to information is a human right and forms one of the defining characteristics of a democratic society and the basis for open government.

The United Nations (UN) General Assembly in 1949 passed Resolution 59(1), which stated that freedom of information is a fundamental human right and the touchstone of all freedoms to which the UN is concerned.

The International Covenant on Civil and Political Rights which Uganda ratified in 1995 guarantees the right to freedom of expression providing, 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...." Article 9 of the African Charter on Human and Peoples' Rights also provides for freedom of expression.

### Odoki Commission

The genesis of this in Article 41 of the Constitution of Uganda can be traced to the recommendations of the Uganda Constitutional Commission (the Odoki Commission). Reflecting on a constitutional history that entailed the non-respect for human rights and the absence of democratic values, the Odoki Commission pointed out that "the fundamental freedom of expression and the right of every person to information are vitally important rights, at the centre of the struggle for the defence of human rights and democracy".

Ultimately, the Odoki Commission recommended, "the freedom of expression which includes freedom to speech, receive, hold and impart opinions, information and ideas without interference should apply to all individuals, groups and the media". Further, the Commission recommended, "public officials should be free to disclose information they come across in the course of their duties, provided it is not classified".

The right to access information is an important human right. Access to information in government possession is one of the ways of promoting good governance, improve and strengthen the culture of transparency and accountability in the public sector.

The value of access to information legislation comes from its importance in establishing a framework of open governance. In this context, the law must be premised on a clear commitment to the rule of maximum disclosure. It will curtail abuse of power, human rights violations and corruption by exposing the veils in government dealings to the public.

The right to access information gives practical meaning to the principle of participatory democracy. The underlying foundation of the democratic tradition rests on the premise of an informed constituency that is able to thoughtfully choose its representatives on the basis of the strength of their record and that is able to hold their government accountable.

Since 2004, The Foundation for Human Rights had been actively engaged in legislative analysis and advocacy for the enactment of the Access to Information Act 2005. This was passed in 2005 and received presidential assent on July 7, 2005. It came into force on April 20, 2006. The President's office issued the Commencement Instrument on March 3, 2006 notifying the commencement to all government departments and agencies.

The Act promotes an efficient, effective, transparent and accountable government, giving effect to Article 41 of the Constitution, protecting whistle blowers, promoting transparency and

accountability in all the organs of the State as well as empowering the public to effectively scrutinise and participate in government decisions that affect them.

### Implementation is key

The Act is intended to apply to all information and records of government ministries, local governments, statutory corporations and bodies, constitutional commissions and other government agencies, unless specifically exempted.

Passing the law is only the beginning. Implementation is where the challenge lies.

In preparing for the implementation of the Access to Information Act 2005, the government will have to take steps to establish the groundwork necessary to ensure the effective implementation of the access to information law.

Those implementing the law need to be trained in how to manage applications/appeals, apply and interpret the law.

If the Act is to meet its objectives then citizens need to be completely aware of their rights. Experience has shown that in the early stages of implementation, it is important for the government to take a pro-active role in promoting the Act.

At the core of the law are record papers, documents, files, notes, materials, videos, tapes, samples, computer printouts, disks, and a range of other things. Without an effective system for creating, managing, storing and archiving records, implementation of the access law will be more difficult.

To ensure that the law is achieving its aims the implementation of the Act should be supported by an effective monitoring and evaluation system.

The information collected should be proactively disclosed by the government on its website, at a minimum. It should monthly be collected by each public body and sent to the government department responsible for overall implementation of the Act.

### Publicise request

In accordance with best practice all the statistics collected should be compiled into an annual report. The Access to Information Act requires the Minister responsible for Information to submit an annual report in Parliament on the requests to access information and/or place the said report on government websites. The report should be disseminated as widely as possible.

Recognising that effective implementation is fundamental to the success of any access regime, the Foundation for Human Rights Initiative in partnership with other government departments convened a roundtable discussion between the 18th and 19th September 2006 and unanimously adopted a Kampala Declaration on the implementation of the Access to Information Act which called on the government to take steps to establish the necessary infrastructure and systems which will ensure that the law is effectively operationalised.

Source: <http://allafrica.com/stories/200610171049.html>