

OPEN DEMOCRACY & SUSTAINABLE DEVELOPMENT INITIATIVE

Free Speech, Participation, Accountability without Information is an illusion



RWANDA

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Submitted by:

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1. Executive summary

Rwanda has recently embarked on media reforms and a number of developments include the enactment of the access to information law and related ministerial orders. The country is also committed to promote good governance. This is underpinned by the aspirations set out in the Economic Development and Poverty Reduction strategy 3; however, freedom of access to information is still facing a number of challenges and yet Rwanda if is to achieve its aspirations laid out in EDPR 3 and in vision 2020, open democracy and good governance for sustainable development, the right to information is of great significance. This report therefore focuses on developments related the right to information and associated measures taken by the government and gaps that need to be addressed.

In this submission, ODESUDI provides information under sections A, B, C and E, F, G as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*¹. Most of the information presented in this report concern particularly the right to access to information.

2. Methodology

Open Democracy & Sustainable Development Initiative (ODESUDI) is a Rwandan Local NGO that promotes open democracy and governance especially through promoting citizens rights on access to information. The Compilation of this report was based on consultations with CSO and Media organizations during a training workshop on access to information and its challenges in Rwanda, conducted by ODESUDI with support from Open Society foundation and the South African Center for Human Rights in South Africa. This consultation meeting took place at The Manor Hotel on 3rd of October 2014 and was attended by 20 CSOs and Media organizations.

Other consultations were also carried out during access to information workshops and many issues were captured during open debate secessions at the launch event of www.sobanukirwa.rw an access to information website by ODESUDI and Tumenye LTD that took place on 11 of February 2015 at Umubano Hotel and was attended by 65 participants. This was accompanied by desk research all which has helped to inform the Rwanda's UPR report.

¹ See Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007

3. Rwandan Normative and Institutional Framework

a) The applicable legal frameworks and international human rights standards;

The Rwandan constitution explicitly provides for access to information and the protection of freedom of speech and the press, it guarantees freedom of access to information in its Article 34².

Rwanda has also ratified a number of international treaties related to the protection and promotion of access to information and this include the Universal Declaration of Human Rights of 10 December, 1948, especially in Article 19³; the International Covenant of 16 December 1966 on Civil and Political Rights as ratified by the Decree-Law no 08/75 of 12/02/1975, particularly in article 19⁴; and the African Charter on Human and Peoples' Rights of 27 June 1981 as ratified by Law no 10/1983 of 01/07/1983, especially in Article 9.⁵

Rwanda has also enacted the access to information Law N° 04/2013 of 08/02/2013 relating to Access to Information published in the official gazettes on 11th of March 2013, it has also issued the accompanying ministerial orders/ guidelines in January 2014

b) Principles of Freedom of information (FOI)

The Law N° 04/2013 of 08/02/2013 relating to access to information Law takes into account the principles of freedom of information derived from the declaration from the African Platform on Access to information⁶ and was also enacted with guidance from the African Modal Law on Access to information. The accompanying guideline/ Ministerial orders for instance ministerial order on the exemption of information on security grounds was elaborated with guidance from the security guideline adopted at regional level with support from the African special rapporteurs on access to information.

² See article 33 and 34 of the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date.

³ See article 19 of the Universal Declaration of Human Rights of 10 December, 1948.

⁴ See article 19 of the International Covenant of 16 December 1966 on Civil and Political Rights as ratified by the Decree-Law no 08/75 of 12/02/1975.

⁵ See Article 9 of the African Charter on Human and Peoples' Rights of 27 June 1981 as ratified by Law no 10/1983 of 01/07/1983.

⁶ See declaration of the African Platform on access to information (APAI).

While reporting on the status of implementation of the access to information law we are taking into account the following principles.

- I. Fundamental Right Accessible to Everyone.
- II. Maximum Disclosure.
- III. Established in Law.
- IV. Applies to Public Bodies and Private Bodies.
- V. Obligation to Publish Information (proactive disclosure).
- VI. Language and Accessibility
- VII. Limited Exemptions.
- VIII. Oversight Bodies.
- IX. Whistleblower Protection.
- X. Duty to Collect and Manage Information.
- XI. Duty to Fully Implement.
- XII. Enabling Environment.
- XIII. Access to Information and Communications Technologies.
- XIV. Aid Transparency.
- XV. Natural Resources Transparency.

4. Promotion and protection of the access to information freedoms.

The fundamental right Accessible to everyone and established in Law.

- I. The access to information Law is in existence but is facing challenges related to implementation. For instance one would refer to *the obligation to proactively publish Information (proactive disclosure)*.article 8 of the law on access to information provide that public institutions and some private bodies to which this law applies should proactively publish information on their website within a period of six month after the enactment of the Law. Article 3 of Ministerial order No 006/07.01/13 OF 19/12/2013) also talks about proactive disclosure and yet details stated in these articles are yet to be published.
- II. **Applies to Public Bodies and Private Bodies.**

The Law is applying to public and private bodies, some public institutions have nominated information officers and others have not. Where the information officers have been nominated they are focusing on other roles other than addressing access to information requests from the public. And the private organizations have not even known that they are concerned by this law and consequently none has nominated information officers.

There is also limited awareness of the public information officers about their role of answering requests from access to information applicants for example out of the 17 requests submitted through www.sobanukirwa.rw an access to information/ Open government website in Rwanda established by Open Democracy & Sustainable Development Initiative (ODESUDI) in partnership with Tumenye LTD only one has been successfully answered.

Limited awareness of the public about their access to information freedoms and awareness of public institutions on their duties to promote these freedoms is among the reasons hindering the progress in exercising access to information rights. For instance few information officers take time to respond to information requests. Therefore there is an urgent need to create awareness of information officers and of the public if access to information rights is to be realised. The government has to make this a first priority as well as facilitating information officers in executing their duties.

III. Oversight Bodies.

The institution charged with monitoring access to information law “the office of the Ombudsman” has insufficient capacity in terms of human resources. It is also overwhelmed with other tasks related to fighting corruption and injustices with little focus on access to information. It also needs more budgets to allow it to carry out its mandate under the access to information Law.

c) Recommendations

1. We recommend the government to put more emphasis in the implementation of the Law by currying out training campaigns for information officers and conducting public awareness on their access to information freedoms.

2. To ensure proactive disclosure and also to establish a specific unit at the office of the ombudsman charged with ensuring the implementation of the access to information Law and reporting.
3. There should be more budget allocation to the office of the ombudsman in order to carry out its mandate under the access to information Law as well as equipping offices of public information officers.
4. We recommend the government to enhance the nomination of public information officers in all public bodies as well as to proactively disclose their contact details on websites as provided for in article 8 of the ATI act and article 3 of Ministerial order No 006/07.01/13 of 19/12/2013.
5. We also request the Government of Rwanda to acknowledge the role of CSOs that are focusing on monitoring FOI and creating public awareness. Looking at them as partners not as rivals.
6. Information officers should be discharged off other duties not related to answering information requests. This will help them to have more time to full fill their obligations enshrined in the access to information law and their accompanying guidelines.
7. We recommend development partners to provide funding to NGOs that are working on access to information and media freedoms at national level in order to allow them to monitor the implementation as well as promoting public awareness.