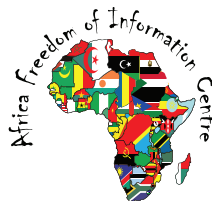


# ENHANCING GOOD GOVERNANCE THROUGH CITIZENS' ACCESS TO INFORMATION

Case Studies on Access to Information in Kenya, Malawi and Uganda



**Disclaimer**

AFIC would like to thank Swedish International Development for Cooperation Agency for their generous support toward this report. The views held in this report are not necessarily the views of the Swedish International Development Agency.



# **ENHANCING GOOD GOVERNANCE THROUGH CITIZENS' ACCESS TO INFORMATION**

**CASE STUDIES ON ACCESS TO INFORMATION IN KENYA, MALAWI AND UGANDA**

2016

# Table of Contents

---

Introduction	1
Knowledge gathered from the workshops	4
Success Stories	5
Title: Access to information used to track non-delivery of Teaching and Learning Materials	5
Title: Traditional Authority (T/A) of Makanjira communities' search for accountability gives birth to a quality primary school block	7
Knowledge gathered from the workshops	10
Success Stories	11
Title: Transparency issues in the distribution of sanitary towels to primary and secondary schools in Nambale sub-county	11
Title: Staffing Levels in Tier 2 Health Facilities in Nyanza Region	13
Success Stories	17
Title: Access to Information regarding Ndorwa Primary School teacher's accommodation	17
Traces of cracks on the building at Ndorwa Primary School.	18
Title: Shortage of water supply in Kabale	19

# Introduction

---

This publication presents a set of case studies generated by AFIC and its members in the piloting of a 12 months project on promoting good governance through citizens' access to information in Kenya, Malawi and Uganda. AFIC's implementing partners were Article 19 (Kenya), Centre for Human Rights Rehabilitation (Malawi), HURINET and Kick Corruption out of Kigezi (both Uganda). Swedish International Agency for Development Cooperation funded the project.

The right of access to information is tightly linked to other fundamental rights such as access to education or access to health. They are also necessary components for an open, transparent and accountable governance.

As such, right of access to information is recognized in several treaties and major development agendas. These include Article 9 of the African Charter on Human and Peoples Rights<sup>1</sup>, Article 19 of the African Charter on Democracy, Elections and Governance<sup>2</sup>, Article 9 and 12 (4) of the African Union Convention Against Corruption<sup>3</sup>, Article 10 (3d) and 11 (2i) of the African Union Youth Charter<sup>4</sup>, Article 6 of the African Charter on Values and Principles of Public Service and administration<sup>5</sup> and Article 3 of the African Statistics Charter<sup>6</sup>, the Sustainable Development Goal (SDG) target 16.10 and the African Union Agenda 2063.

---

1 <http://www.achpr.org/instruments/achpr/>

2 [http://www.ipu.org/idd-E/afr\\_charter.pdf](http://www.ipu.org/idd-E/afr_charter.pdf)

3 [http://www.au.int/en/sites/default/files/AFRICAN\\_UNION\\_CONVENTION\\_PREVENTING\\_COMBATING\\_CORRUPTION.pdf](http://www.au.int/en/sites/default/files/AFRICAN_UNION_CONVENTION_PREVENTING_COMBATING_CORRUPTION.pdf)

4 <http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD/Dakar/pdf/AfricanYouthCharter.PDF>

5 <http://www.au.int/en/content/african-charter-values-and-principles-public-service-and-administration>

6 [http://www.au.int/en/sites/default/files/AFRICAN\\_CHARTER\\_ON\\_STATISTICS.pdf](http://www.au.int/en/sites/default/files/AFRICAN_CHARTER_ON_STATISTICS.pdf)

Although Africa has generally made significant progresses in the realization of the right of access to information over the last six years, there is still room for improvement. In ratifying the African Charter on Human and Peoples' Rights, State Parties are under an obligation to take practical steps, including legislative and administrative measures to give effect to the freedom of information and thus the right of access to information. Complying with this obligation, Kenya, Malawi and Uganda have all ATI constitutional provisions and in the case of Uganda a law<sup>7</sup> that gives effect to Article 41 of the country's 1995 Constitution.

However, there is a great difference between expression of governments' intentions towards commitments regarding ATI legal framework and its implementation. Between theory and practice, between intentions of power holders and real enjoyment of the right to information, there is a huge gap. This gap has negative impacts for the ends users of public's services. Where there is a lack of access to information, there is room for numerous maladministration and corruption. Public resources allocated to deliver public services is not always spent for what it was intended to, which results in a poor quality and quantity of public services delivery .

Without information, citizens are unable to identify these failures, monitor the effectiveness of their rights and ask for redress when needed. The negative consequences affect every aspect of their lives from the fees they pay for their children to go to school, the medicine that is available in their local health center, the quality of the road they have, to the supply of drinkable water.

Within the project **"enhancing good governance through citizens' access to information in Malawi, Uganda and Kenya"**, supported by the Swedish International Development Cooperation Agency (Sida), AFIC and its members conducted training for CSOs and public servants on the mechanisms and effects of access to information by ordinary citizens. The intended outcomes were to create knowledge and synergy to strengthen and complement the progresses towards accountable and transparent governance by enhancing the capacities of citizens to request for information. Ultimately, this would impact on the accountability and public services deliveries as well as the enjoyment of other fundamental rights for the citizens of these three countries.

In each country, the ATI training was designed in three phases: two workshops with a period of mentorship between.

<sup>7</sup> The access to information act, 2005 <http://opm.go.ug/assets/media/resources/5/Access-to-Information-Act-2005.pdf>

The first workshop focused on ATI and its mechanisms. The objectives were for the participants to:

- ✿ Equipping participants with knowledge on RTI legal frameworks and their application
- ✿ Identify issues in their sector of public services deliveries and translate it in information requests
- ✿ Identify strategy and mechanism to obtain the information desired
- ✿ the strategies of follow up on the information request and the initial issue they identified

The second phase was a period of mentorship of participants provided by a local CSOs expert in ATI. The objective was to guide the participants of the first workshop in implementing their learnings.

The third phase consisted of a follow up workshop whose objectives were to share experiences, good practices, challenges and results of applying acquired knowledge from the initial training and mentorship programme.

This report presents a compilation of findings gathered during these workshops. It encompasses good practices, challenges and recommendations to empower citizens in their right of access to information. Furthermore, cases of information requests that have been submitted after these workshops will illustrate different facets of access to information, its impact on other fundamental rights and contribution in engaging public authorities in a transparent and accountable governance.

The case studies are based on selected feedback rather than entire scale of requests. It should also be noted that these cases were gathered within a limited scale of time and doesn't capture the entire scope of potential impact of the project.

# Malawi

Although Malawian Constitution<sup>8</sup> guarantees the right of access to information for every person under Section 37, there is no Act of Parliament to give it effect. In 2014, a National Access to Information Policy<sup>9</sup> was adopted by Malawian cabinet.

## Knowledge gathered from the workshops

The CSO workshop was held in Lilongwe was attended by 40 participants with 30% female and 70% male implementing programmes related to health and education sectors. It covered legal and policy environment governing the right to information in the country and how civil society could apply them to advance the right of access to information. On the other hand, training for public officials attracted 25 participants 28% female and 72% male. Content covered implementing the right to information from the supply side perspective.

The feedback from the workshops shows that both CSOs and public officials recognize the importance of ATI as a key component to reduce corruption as well as to enhance the trust of citizens in the public institutions and political leaders. However, it appears that public officials weren't highly enthusiastic to the training on ATI and either sent junior public officers or did not attend to the workshops.

Regarding data gathered from 24 cases of information requests submitted after the first workshop, we noted that:

---

8 Constitution of Malawi [https://www.icrc.org/applic/ihl/ihl-nat.nsf/162d151af444ded44125673e00508141/4953f2286ef1f7c2c1257129003696f4/\\$FILE/Constitution%20Malawi%20-%20EN.pdf](https://www.icrc.org/applic/ihl/ihl-nat.nsf/162d151af444ded44125673e00508141/4953f2286ef1f7c2c1257129003696f4/$FILE/Constitution%20Malawi%20-%20EN.pdf)

9 Malawi National Access to Information Policy <http://www.africafoicentre.org/index.php/resources/foi-laws/191-malawi-ati-policy-national-access-to-information-policy?path=>



## 24 information requests submitted

37.5% granted within reasonable time

71% on Health matters, 25% on Education, 4% on Agriculture

37.5% related to the monitoring of public contracts

25% related to investigation of misappropriate public funds

83% addressed to national administrations, 17% to local administrations

## Where denial of information was recorded

40% were not given statutory justification for denial

33% were by use of delaying tactics (absenteeism of the responsible officer, informal referral, denial of responsibilities...)

13.5% were by mute denial

13.5% were because of the information not being available

Recommendations made during the workshops emphasized on the following aspects:

- ✿ There is a need to advocate for a greater commitment of public institutions towards ATI.
- ✿ Filing of information requests is an important tool to push transparency and accountability agenda
- ✿ The CSOs should organized itself within an Access to Information forum divided in thematic working groups. This platform would strengthen the engagement of CSOs.
- ✿ As there is no ATI law and related policies, there is a need to advocate for a clear legal framework to ATI allowing litigation when needed.

## Success Stories

**Title:** Access to information used to track non-delivery of Teaching and Learning Materials

**Year:** 2015

**Country:** Malawi

**Type and name of requestor:** Kasungu Education Network

## Issue Area: Education

**The issue/Story:** Government schools in the district of Kasungu located in the central region of Malawi faced chronic shortages of teaching and learning materials, for two years, despite Parliament's approval of funds for the same. Resultantly, the delivery and acquisition of knowledge was negatively affected. The critical casualties were the learners. In 2015 the Civil Society Education Coalition (CSEC), a local NGO network mobilized the Kasungu Education Network (a network of CSOs working on education) to carry out a public expenditure tracking exercise to address the situation. A central aspect of the exercise was the utilization of access to information as a tool to gather information and facts in relation to the situation. The network filed information requests and made all necessary follow-ups with the District Education Office and the Ministry of Education by visiting several times the administration to get responses on their request.

**The challenge:** was to understand underlying causes of chronic shortage of teaching and learning materials in Kasungu Government Schools.

**Impact:** The district education network made a visit to the supplier's operation base to ascertain the authenticity of the business when they discovered that the supplier's business certificate only obliges him to deal in electrical and other appliances and not education materials.

It was also established that the District Education Manager (DEM) for Kasungu had awarded a contract and paid a supplier to deliver teaching and learning materials for two consecutive years even though the supplier was not delivering.



*To the left: the outside wall mark of the supplier's business name and to the right: only cell phone parts on the shelves. A Shop Assistant when confronted by KUDEN staff had nothing to say but could only look down.*

Finally, the supplier was forced to reimburse all funds meant for the supplies.

**Lessons learnt:** Empowering community members in demanding and requesting for information held by duty bearers can go a long way in aiding transparency and accountability in development projects in Malawi. Duty bearers will feel obliged to effectively deliver service knowing that under performance will be subjected to public and community scrutiny.

### **Title: Traditional Authority (T/A) of Makanjira communities' search for accountability gives birth to a quality primary school block**

---

**Year:** 2015

**Country:** Malawi

**Type and name of requestor:** T/A Makanjira communities'

**Issue Area:** Education

**The issue/Story:** Realizing their responsibility in enhancing children's right to education, communities around Nakaleza Primary School of T/A Makanjira in Salima District started demanding an additional school block to cater for the growing number of pupils.

"As a starting point, we had to assess ourselves as rights holders and do our part in solving the challenge. Through chiefs surrounding the area, we moulded bricks in readiness for the construction of an additional classrooms at the school," explains Juma M'bwana, CHRR's project volunteer in the area.

The rights holders then knocked on the door of the District Council which showed positive response to the demand of extending the school and proceed with contracting a building company. However, upon reaching the window level, construction of the two-class roomed school block stopped. After waiting for two months, the aggrieved communities made information requests and subsequent follow-ups to the Salima District Commissioners' office.

**The challenge:** was to understand the reason in holding the work on the building.

**Impact:** The District Commissioner (DC) wondered that the communities came to find out when the school would be complete. "According to our records, construction of the school was completed and pupils are now learning in the

new classrooms”, said Charles Kalemba, the DC. He promised the communities that his office would institute swift investigations to get down to the issue.

Investigations showed that the construction stalled due to mismanagement and diversion of resources. The Salima District Council official implicated in the scandal was immediately interdicted, and construction resumed at the school till the block was truly complete. Pupils in the area are now learning in a new environment, there easing congestion in classrooms.

**Lessons learnt:** When empowered with information, communities become crucial stakeholders in monitoring public services deliveries and holding their governance accountable. The more they participate in the process, the more they can trust public authorities. In this case, the district officer acted swiftly and issued sanctions accordingly to the misdeed. This strengthen citizens’ confidence in the redress and enforcement mechanisms of public administration in case of corruption and misappropriation of public funds.

**Title:** Empowered community foils fraud in Public Works Program

**Year:** 2015

**Country:** Malawi

**Type and name of requestor:** Umodzi Community Rights Club, civil society organisation

**Issue Area:** local government

**The issue/Story:** The public works program is a government intervention to create employment opportunities generate incomes and concomitantly build economic infrastructure through labour intensive activities. The initiative targets vulnerable families in the community to ensure that they meet their health and children’s education needs. Activities under the component include construction, rehabilitation and maintenance of economic infrastructure such as rural roads and small irrigation systems.

Upon undergoing public works programme training, chiefs together with the Village Development Committee (VDC) and the foreman of the Group Village Head of Mkhota, Traditional Authority of Kayembe connived to create ghost beneficiaries on the program in the hope of sharing the proceeds. Thus, a total of 20 ghost workers were created.

After suspecting fraud the chairperson of Umodzi Community Rights Club made an information request to the District Council on the list of beneficiaries.

**The challenge:** was to understand who was registered as beneficiaries to the District Council and if they met eligibility.

**The process:** The list was provided by the District Council. The requester went to monitor the progress of the project on the ground and compared the name on the official list with those who were actually working on the ground.

**Impact:** The corrupt plan by the duty bearers was exposed as fraud. The list delivered by the District Council had more names than those actually working on the ground.

With the help of CHRR's Community Based Facilitator, they waited for payment day where they made sure only those who were seen working got their dues. When the foreman together with the VDC and chief realised their plan had failed, they had no option but to delete all the ghost beneficiaries from the list.

**Lessons learnt:** ATI can help to uncover corruption and expose frauds. In making administration process and decisions transparent, it empowers citizen to monitor their public services and dissuade potential fraudster to divert public funds.

# Kenya

The right to information for Kenyan citizens is guaranteed by Constitution under Section 35<sup>10</sup>. The Access to Information Bill<sup>11</sup> was published in 2015, approved by the Parliament in April 2016, but still wait to be signed. It results from a long and tedious process of negotiation between the government and civil society. Some clauses are still disputed by CSOs as not compliant with international and continental standards on Access to Information. Besides, other laws limit and hamper disclosure of information. The Official Secret Act (OSA) inhibits the accountability of government to the public on claims of protecting the public interest and the Public Officers Ethics Act has a number of clauses that criminalize “unlawful disclosure” of information by public servants.

## Knowledge gathered from the workshops

The CSO workshop were held in Nairobi and were attended by 46 participants with 61% female and 39% male implementing programmes related to health and education sectors. It covered legal and policy environment governing the right to information in the country and how civil society could apply them to advance the right of access to information. On the other hand, training for public officials attracted 45 participants with 75% female and 25% male. Content covered implementing the right to information from the supply side perspective.

Workshops in Kenya revealed a number of challenges:

- ✿ The people seeking for information as individuals are not likely to carry out their requests. They will wait for the assistance of civil society organisations. The reasons are that they lack the confidence for a positive answer and they are afraid of back firing their case.

---

10 Constitution of Kenya, Article 35

11 THE ACCESS TO INFORMATION BILL, 2015 [http://info.mzalendo.com/media\\_root/file\\_archive/Access\\_to\\_Information\\_Bill\\_2015.pdf](http://info.mzalendo.com/media_root/file_archive/Access_to_Information_Bill_2015.pdf)

- ✿ Public servants are not always willing to comply with the law. Information officers are rather prone to give the information informally but they fear to put their name on an information request granted.
- ✿ Denial of public institutions to disclose information is common.
- ✿ The public institutions are not well prepared to implement the ATI as there is poor record management and lack of specialized human and financial resources dedicated to ATI.
- ✿ The procedure of requesting information is long, tedious and high applicable fees are charged.

Recommendations and way forward were made by the participants:

- ✿ The citizens lead by CSOs and public institutions need to identify what information should be disclosed proactively.
- ✿ There is a need to foster CSOs networks by sector to facilitate information sharing and to coordinate the monitoring of public services.
- ✿ ICT has been identified as an appropriate tool to both disseminate proactively public information and facilitate the access to the information. In this regard, it was suggested to put in place a portal that would provide comparative data about public contracts budgets to enable and facilitate the monitoring of public contracts by the citizens.
- ✿ It appears clearly that citizens have an essential part to play in monitoring their public services institutions and hold them accountable and transparent. For this purpose, it is necessary that they acquired ownership upon ATI mechanisms and became regular users.

## Success Stories

**Title:** Transparency issues in the distribution of sanitary towels to primary and secondary schools in Nambale sub-county

**Year:** 2016

**Country:** Kenya

**Requestor:** A member of civil society organisation, Young Leaders of Kenya (YOLEKA)

**Issue area:** Health

**The issue/Story:** Since the financial year 2011/2012, the Kenyan Government committed Ksh. 240 Million for the purchase and distribution of sanitary towels to 443,858 girls in primary and secondary schools<sup>12</sup>. The project was to be implemented in the subsequent years. However, there have been cases of misappropriation of funds allocated to schools to cater for the sanitary towels budget. In some cases, the sanitary towels were bought but ended up to be used elsewhere.

In Nambale Constituency, in Busia County, a number of school going girls have not been receiving sanitary towels for a long time now. As they cannot afford to buy these towels, they have resorted, through the assistance of their mothers and grand-mothers, to using improvised sanitary towels made of dried cow dung tied in pieces of clothes.

The civil society organisation, Young Leaders of Kenya, has been working in the area for over two years now. Without the knowledge about the related national policy, this organisation started a project to distribute sanitary towels to school going girls, especially those in Nambale Constituency. A representative of Youth Leaders of Kenya came to learn of the policy in a forum organised under the project by ARTICLE 19 Eastern Africa that she attended. In the training, the participants were sensitized on the mechanisms of Access to information and tasked to make information requests on pertinent issue of their choice. She specifically chose the issue of sanitary towels which she said she would follow.

**The challenge:** Even though she was willing to acquire more information on the distribution process of the sanitary towels, the representative of Young Leaders of Kenya did not proceed with the information request to relevant authorities. This is because she lacked capacity to file good information request to the Ministry of Education, Science and Technology as well as to the heads of schools in the region. Moreover, she did not know the exact office to address her concerns since some units within the education sector had been devolved while some remained with the national government.

**The process:** After few weeks, ARTICLE 19 Eastern Africa which had trained her, went to visit the organisation in the area for a coaching and mentorship session. The leadership of Young Leaders of Kenya appreciates the coaching and mentorship session. The session helped them to understand how best to file a formal information request with the Ministry of Education, Science and Technology.

12 "Sanitary Towels Programme" available at <http://www.education.go.ke/ShowPage.aspx?departm%20ent=1&id=1168> (accessed 29 March 2016).



**Impact:** This request is yet to be responded to but steps have been taken by the county leadership in-charge of education to address the problem through the head teachers. The County Director of Education was not part of the training, but was informed of the situation by the leadership of Young Leaders of Kenya. He has directed all the head teachers to appoint specific female teachers in their schools to be in-charge of the distribution of the sanitary towels.

**Recommendations/Lessons Learnt:** It seems that ATI trainings reinforce the confidence of citizens to hold accountable their public institutions, request for information and or address their concern directly to relevant authorities.

However solely workshops on Access to Information are not sufficient for the participants to be comfortable in submitting information requests. There is need to follow up with a period of mentorship that provide reference and guidance to the participants, especially in going through their first experience of requesting information.

## **Title: Staffing Levels in Tier 2 Health Facilities in Nyanza Region**

---

**Year:** 2015-2016

**Country:** Kenya

**Requestor:** A member of CSO, National Taxpayers Association (NTA)

**Issue area:** Health

**The issue/Story:** The National Taxpayers Association (NTA), one of the partner organisations working with ARTICLE 19 Eastern Africa on transparency in the education sector embarked on a study to establish staffing levels in tier 2 health facilities in the five counties within Nyanza region. These counties are Kisumu, Migori, Siaya, Homa Bay and Kisii. Official letters were sent to the County Executive Committee (CEC) members' in-charge of health in all the five counties requesting for data on the number of staff per health centre, their conditions of work and deficits. The findings of the study are of great importance as it will help identify gaps and needs regarding Human resources in the health sector of these sub-mentioned districts.

**The challenge:** was to access the necessary data to conduct the study.

**The process:** In Kisumu County, the CEC redirected the request to the Chief Officer of Health for action but failed to act and instead redirected the request further to the Human Resource Officer of Health Department. Again, the

Human Resource Officer failed to act on the request and instead gave excuses on regular basis such as there was no electricity in office, the printer did not have cartridge, and internet connectivity was low, among others.

Eventually, the request was forwarded to the Data Officer in-charge of Health Management and Information Systems who was very supportive. The data officer gave the contacts of all the officers' in-charge of tier 2 facilities whom the requester contacted for interviews. The requestor managed to get the relevant information that the organisation had requested from them.

**Impact:** The report on the study is yet to be launched in June 2016. However, an envisioned impact is an increase in the hiring of the additional human resource persons for health due to the current shortage in work force in the health sector within Kisumu County.

Also, services such as ambulatory and laboratory, among others, are expected to improve with time.

NTA together with ARTICLE 19 Eastern Africa are expected to use the findings of the report to lobby and advocate for the above changes.

**Recommendations/Lessons Learnt:** The initial officers delayed the process making the study to stall at some point. The human resource officer to a larger extent contributed to the unnecessary delay of the study because he failed to act on the request yet there was the right person to act on it. Should the request have earnestly landed on the desk of the data officer, then the requester would have had the information on time.

It is important to identify the right public office and the officer in-charge before submitting an information request to avoid delays and referrals from one office to the other.

There will be need to follow up with the implementation of the findings of the study once the report is launched. Shortage in staffing on tier 2 hospitals, among other tiers is a serious concern that should be dealt with effectively.

# Uganda

Uganda is one of the 19 countries in Africa that has passed Access to Information Act (ATIA). It was adopted in 2005 under the ATIA and its implementation has been enforced by the ATI Regulations in 2011 which were issued following AFIC's information request.

Training workshops for CSOs was held in Kabale, Kanungu, Rukungiri and Kisoro districts and was attended by 36 participants 24% female and 76% male implementing programmes related to health and education sectors from the districts. It covered legal and policy environment governing the right to information in the country and how civil society could apply them to advance the right of access to information. On the other hand, training for public officials attracted 29 participants 50% female and 50% male. Content covered implementing the right to information from the supply side perspective.

Whereas trainings were oriented and CSOs participants were encouraged to focus their information requests on health and education, feedback in Uganda revealed that with understanding of the law and how to apply it, people use it to resolve their problems in a variety of sectors and fields.

Knowledge gathered from the workshops.

Based on data gathered from the follow up workshops in Uganda-Kigezi region in Kabale.

## 25 participants

67 % had at least filed one information request after the first training

22% for personal use, 33% for professional use, 45% for both

27% used of "askyourgov.ug", an online tool used to submit and follow up information request to public administration

37.5% of the participants revealed were following up the requests, 25% were organizing for making of appeals, while 37.5% had not taken any step

## 26 information requests submitted

50% granted in statutory time, 4% with an over delay

23% on Health matters, 20% on Education, 20% on local government, 12% on Social Affairs

23% related to the monitoring of public contracts

27% related to investigation of misappropriate public funds

64% addressed to local administrations, 32% to national administrations

## Responsiveness recorded per sector and level of administration is unequal.

Where denial of information was recorded

80% of requestors were never given the reasons for denial

20 % were given reasons such as; Misplacement of files, absence of officers concerned, officers

Recommendations identified from the workshops are the following:

- ✿ Based on the result of the data gathered from the follow up workshops with for instance education sector having a rate of 100% disclosure as compare to health sector with 33%, more study is needed to determine why responsiveness to information requests regarding certain concerns of area are more likely to be disclosed than others.
- ✿ With 80% of requestors that were never given the reasons for denial, it is reasonable to conclude that an effective RTI implementation regime requires a litigation component.
- ✿ Looking at the results of ATI training for CSOs and public servants, it seems important to extend this strategy to more sectors and geographical areas.

## Success Stories

### **Title:** Access to Information regarding Ndorwa Primary School teacher's accommodation

---

**Year:** October 2015

**Country:** Uganda.

**Type and name of requester:** Regional NGO- Kick Corruption out of Kigezi.

**Issue area:** Education

**The issue/Story:** For a very long time, in Ndorwa Primary School there has been a challenge and concern of lack of teachers' accommodation at the school. In a bid to address the challenge, government facilitated the construction of four teachers' houses at the school using the school Facility Grant. The works began in 2005.

In September 2015, AFIC introduced the concept of Access to Information in Kabale district and Kigezi region at large. To that effect, AFIC conducted the first training on ATI in the district with Civil Society as well as Government officials respectively, especially popularizing the use of Access to Information Act (2005). Ultimately, this knowledge was to be used to access and use government information to improve accountability on service delivery in the community, to help hold government accountable and fight corruption.

After the training, Kick Corruption out of Kigezi (KICK), a civil society organisation that attended AFIC's training, took up the initiative to file an information request to the Town Clerk of Kabale Municipality inquiring about the completion of the teachers' houses at Ndorwa Primary School.

**The challenge:** was to understand the reason for delay for the occupation of the building.

**The process:** Information was granted regarding the contract agreement and award notification of the contract by the council. However, the work on the ground showed that there was some shoddy work in the plumbing system, as

well as the furnishings in the rooms. It was also discovered that the contractor has also not yet handed over the building to the Municipal Council.



*Traces of cracks on the building at Ndorwa Primary School.*

In June 2016, KICK took the initiative to share these findings with the District Integrity Promotion Forum which is chaired by the Resident District Commissioner (RDC). As a Chair of the Forum, he came up with a resolution that as district leaders, and decision makers, they needed to have a site visit. This action aimed as to make informed recommendations to the council, as well as to the relevant stakeholders in order to come up with appropriate solutions to the problem.

**Impact:** While at Ndorwa Primary School, the RDC requested the Municipal Engineer to call the contractor to work on the plumbing system with immediate effect, since some teachers had earlier decided to occupy the building.

The forum also resolved that they will write a report and present it to the council to see how best the completion of the structure can be made a priority and solve the challenge of teachers' accommodation.



*The RDC and his team during the site visit at Ndorwa Primary School–June 2016.*

**Lessons learnt:** The process of requesting an information alone is not a result for change in itself. Follow-up in engaging the public authority is necessary to work towards the resolution of the issue identified in the first place. In this case, we see that public authorities were readily willing to take actions once aware of the issue.

## **Title: Shortage of water supply in Kabale**

---

**Year:** October 2015

**Country:** Uganda.

**Type and name of requester:** Citizen

**Issue area:** Health

**The issue/Story:** Following a training on access to information on the 13 and 14th October 2015 whose objective was to promote better understanding of ATI mechanisms and utility, a citizen filed an information request to National Water and Sewerage Corporation on the 25th November, 2015.

**The challenge:** was to seek explanations regarding the inconsistent water supply in Kabale Municipality.

**The process:** The Branch Manager of the National Water and Sewage Cooperation (NWSC) was not in office. Nevertheless, the receptionist telephoned to the manager, who said that he was away for two weeks.

The requester went back two weeks later and found the manager back in office. He was given the information he had requested. The requester was informed that water shortage was because the generator which is used for pumping the water was faulty and power supply from Umeme was inconsistent. It was further revealed that road construction going on in the district had resulted in cutting of pipes and that the water was just going to waste and not reaching clients.

The requester passed on the /explanation he received from the office of NWSC to one of the journalists of Voice of Kigezi FM. The issue was discussed in one of the radio programmes, where the public was informed of what actually caused water shortage in the municipality.

**Impact:** as a result of media engagement, a meeting of the management of NWSC and UMEME about the issue was triggered. In the meeting, they decided that water should be pumped when power is in supply in order to have adequate supply of water even when there's power load shedding.

However, NWSC has made efforts to rectify the problem of damaged pipes through regular repairs, hence the improved water supply in the municipality.

**Lessons learnt:** ATI allow citizen and civil society to identify the reasons of defection in public service deliveries. In doing so, they can point out the problem to responsible instances and/or amplify the matter for it to become a public debate. In this matter, media have a great role to play and should take every opportunity in contributing to citizens holding accountable their government regarding public services deliveries.

The mediatization of a public issue can trigger and accelerate the process towards resolution of the problem as illustrate in this case.



# Comparative analysis

The existence of FoI law or FoI constitutional provisions without a corresponding duty and capacity to respect the legal framework however necessary, does not amount to the right to freedom of information being protected, respected or fulfilled. All the 3 countries have constitutional guarantees for RTI. Malawi does not have an RTI law but has a National policy on ATI. It is also a member of the open government partnership (OGP). Kenyan Parliament has recently approved an RTI laws and like Malawi is a member of OGP. Uganda has an RTI law but is not a member of OGP.

Based on AFIC and its members' experience as well as the information gathered through workshops, we can see that ATI affects positively and concretely the citizens that are requesting for information. When they have knowledge about how to use the mechanisms, they use this knowledge to resolve issues of their daily life and to hold officials accountable for public service delivery. This can be further explained by the fact that whereas training was oriented to education and health sectors, information requests submitted were on a variety of issues in other sectors.

Training (capacity) seemed to impact on both the demand and supply sides. On the demand side, participants who had never filed information requests did so following the training and attributed this to knowledge of their right and ability to frame information requests as key factors. This explains the increase in information requests. On the public sector side, the observable improved responsible rates and timeliness of responses in Uganda and Kenya are attributable to the training.

Social service sectors like health and education as well as public contracting attracted more attention in terms of information requests, an indicator that people are more about these areas yet they are quite challenged in terms of transparency.

Moreover, it could be observed that increased demand creates increased public sector responsiveness. When the citizens are putting into practice their learnings and submit information requests, they are engaging public institutions. Progressively, it creates a synergy where public institutions consider their policies regarding access to information and data management, hire specialized staffs and foster a culture of disclosing information. In Uganda, the web site *"ask your gov.ug"*<sup>13</sup> translates this synergy. In Kenya and Malawi, it appears that participants of the workshop identified ICT tool as a relevant channel to mainstream the access to information and the monitoring of public services deliveries.

Nevertheless from the same experience, it seems the realities of access to information in Kenya, Malawi and Uganda encompass a lot of challenges. The public servants don't always comply with the law and encourage informal requests rather than using the formal format. Denial without legal justification is common practice as well as unclear justifications.

In regard of the public institutions, the commitments toward access to information are unequal. Good practices rely too much on willingness of public servants to disclose the information and the sensitivity of the information. Too often the record management as well as the lack of financial and specialised human resources hamper the process of access to information.

In regard of the citizens, it seems that the lack of awareness, the fear of being disadvantaged after requesting information and the lack of confidence in the disclosure of the information have limited their incentive to submit information requests.

Through the workshops, recommendations and innovative ideas have been brought up:

- ✿ to advocate for a national legal framework and enforcement of the one existent encompassing a clear and narrow regime of exception;
- ✿ to promote good procedural means by which the right may be exercised, including through proactive publication obligations;
- ✿ to continue raise awareness of citizens and public servants in regard of ATI mechanisms as demand create responsiveness
- ✿ to promote the right to appeal breaches of the rules to independent oversight bodies; as Civil society organisations, to assist individuals in carrying out their requests.

---

13 <http://askyourgov.ug/>



**With the support of the Swedish  
International Development  
Cooperation Agency**



AFRICA FREEDOM OF INFORMATION CENTRE (AFIC)

Plot 436/437 Mawanda Road.

Suite A4, Corner House.

P. O. Box 35643, Kampala

Tel: +256 414 533554

Web: [www.africafoicenter.org](http://www.africafoicenter.org)