



HUMAN RIGHTS NETWORK-UGANDA

# **SURVEY REPORT ON THE REQUESTS FOR PUBLIC INFORMATION**

Undertaken by HURINET-U  
ACCESS TO INFORMATION PROJECT

**MAY 2010**

Report published under the Access to information Project implemented by HURINET-U with support from Open Society Initiative for East Africa

## **Lead Consultant**

Mr. James Nkuubi

## **Research Associates**

Ms. Betty Male

Ms. Joan Asiimwe

## **Editor**

Mr. Ndifuna Mohammed

Chief Executive Officer

Human Rights Network-Uganda

## **Associate Editors**

Mr. Patrick Tumwine

Ms. Betty Male

© HURINET-U 2010



# **SURVEY REPORT ON THE REQUESTS FOR PUBLIC INFORMATION**

Undertaken by HURINET-U  
ACCESS TO INFORMATION PROJECT

**MAY 2010**

## Acknowledgment

HURINET-U takes this pleasure to thank all those who made this survey report possible. We owe our deepest gratitude to the respondents who did not hold back the information needed to inform on the status of information requests made to government and its organs.

We are indebted to the members of the COFI steering committee namely; Uganda Association of Women Lawyers (FIDA Uganda), Uganda Women's Network (UWONET), National Union for the Disabled Persons in Uganda (NUDIPU, Anti Corruption Coalition Uganda (ACCU), PANOS Institute, Uganda Media Development Foundation (UMDF), Human Rights Network Uganda (HURINET-U), and Human Rights Network For Journalists (HRNJ), who offered technical support in designing the tools used for data collection

The research assistants who collected the data cannot go unacknowledged. Your commitment to gather reliable data from the different parts of the country made the production of this report possible

Finally, it is a pleasure to thank the staff at HURINET-U who contributed to the production of this report. Special gratitude to James Nkuubi for the legal and statistical analysis, to Ndifuna Mohammed, Tumwine Patrick, and Betty Male for editing and reviewing this report

## Executive Summary

HURINET-U undertook a survey, January 2009, to assess the public's use of the existing Access to Information Act to request for information in possession of the state and its organs. The data obtained from the survey is intended to aid the creation of an Access to Information requests data base and consequently establishing an advisory center which will offer guidance on how to access information in possession of the state and its organs.

This survey report is a product of the data collected and analyzed from different respondents who included civil society organizations (CSOs), Local Government Officers (LGO) and ordinary citizens from four regions of Uganda. The key findings from this research may be summarized as below;

- I. The total number of respondents was 181 and is the total number of questionnaires received back. This is therefore a representation of a response rate of 100%.
- II. 79.5% (144) of the respondents admitted to having requested for information before from a government agency while 20.4% (37) have not requested for any information.
- III. Of the 144 who have requested for information before, 70.1% (101) had a response from the government entity from which they had made their requests whilst 29.8% (43) never received any response whatsoever (whether negative or positive).
- IV. Out of the 144 requests for information made, 22.9 % (33) were forwarded to the Police; 27.7% (40) were made to the Local Government; 9.02% (13) made to NAADs Personnel; to the Ministry of Education, 9.7% (14) requests were made; 5.5% (8) were geared towards the Judiciary; 4.8% (7) was towards State Attorney (Director of Public Prosecutions); 3.4% (5) towards the Ministry of Defence; Ministry of Lands got 3.4% (5) as well. 13.19 % (19) covers the 'others' which was shared between Prisons, National Environment Management Authority (NEMA); President's Office, Vice President's Office among others.

- V. Of the 101 who had had a response, the time-intervals of receipt or response varied accordingly. Consequently, 11.8% (12) had gotten a response on the spot-immediately; 6.9% (7) in one day; the majority of the group 28.7% (29) got a response within a weeks' time; 3.96% (4) after 2 weeks; 19.8% (20) took 21 days to get a response; 0.99% (1) in one month; 0.99% (1) in 6 months; 20.7% (21) in 3 months; 2.9% (3) in one year whilst 0.99% (1) the wait for a response is still ongoing at the time of the survey and finally, 1.9% (2) had no response to the question.
- VI. Of the 101 people who had a response, 30.6 % (31) admitted to having incurred costs to get the information requested whilst 67.3 % (68) said they had not incurred any costs in pursuit of the information. 1.98% (2) did not respond to the question.
- VII. Of the 31 that said they had incurred costs to access information,
- VIII. Of the 43 respondents that had no response after the request, 32.5% stated that they had incurred costs despite the fact that they ultimately had no response; on the other hand, 44.1 % incurred no costs. 23.3% did not respond to the question.
- IX. Of the 37 respondents that said they had never requested for information, 67.5% (25) said they need assistance to access information while 24.3% (9) did not respond to the question. A minority of 8.10% (3) said no when asked as to whether they would need assistance to access information in possession of the state.
- X. Out of the 144 respondents who requested for information, 75% (108) said that they needed assistance while 14.5 % (21) said they did not need it. 10.4 % (15) did not respond to the question.
- XI. Over all, out of the 181 respondents, 73.4% (133) said they needed assistance whilst 13.2% (24) averred that they don't need any assistance. In the same vein, 13.2% (24) did not respond to the question.

## **The coalition for the freedom of information working group**

### **Uganda Women’s Network (UWONET)**

Uganda Women’s Network (UWONET) is an advocacy and lobbying coalition of national women’s NGOs, institutions and individuals in Uganda. UWONET strives to promote and enhance networking collective visioning and action among the membership and with different actors working towards development and the transformation of unequal gender relations in the Ugandan Society.

### **Human Rights Network-Uganda (HURINET-U)**

HURINET-Uganda is an non profit Non-Governmental Organisation established in 1993 by a group of eight human rights organisations. The identity of HURINET-U lies with its member organisations, which currently comprises of 35 organisations

The vision of HURINET-U is to have a society free of human rights abuse. HURINET-U works with a mission of fostering the promotion, protection and respect of human rights in Uganda through linking and strengthening the capacity of member organisations for collective Advocacy at national, regional and international level.

### **Anti Corruption Coalition-Uganda (ACCU)**

Anti Corruption Coalition Uganda (ACCU) “is an umbrella organisation which co-ordinates, supports and builds the capacity for its 51 member organizations. It was established in January 1999 by ten organisations to provide a platform through which the fight against corruption, bad governance and administrative injustice can be enhanced. ACCU marshals a strong voice and force that effectively engages Government, key stakeholders and the grassroots on issues relating to corruption.

### **FIDA**

The Uganda Association of Women Lawyers (FIDA) is a voluntary, non-governmental. Non-political and non-profit making organisation established to address the status of women in Uganda through the provision of legal aid services.

## **PANOS-Eastern Africa**

Panos Eastern Africa seeks to address the information needs of the poor and marginalized, create media visibility of their concerns and inform policy by: Profiling issues, capacity building, empowerment, building platforms, public debate, and raising voices.

## **Human Rights Network for Journalists (HRNJ-Uganda)**

Human Rights Network for Journalists (HRNJ-Uganda) is a network of journalists who report on human rights issues in the country. It was found late 2006 by journalists who had developed a strong sense of activism and realized their role of promoting human rights through the media. The mission of HRNJ-Uganda is to enhance the promotion, protection and respect of human rights through defending and building capacities of journalists to effectively exercise their constitutional rights and fundamental freedoms for collective campaigning through the media

## **Uganda Media Development Foundation (UMDF)**

UMDF seeks to enhance the capacity of media practitioners to play an active and meaningful role in the realization of democracy, human rights observance, and development in general. The founding of UMDF was informed by the thinking that any society that cherishes democratic ideals needs an independent, pluralistic, free and informed media to act as a platform for democratic discourse among its citizens.

## **National Union of Disabled Persons of Uganda (NUDIPU)**

NUDIPU exists to promote the equalization of opportunities and active participation of PWDs in mainstream development processes. This is pursued through participation in policy planning, capacity building, awareness enhancement and resource mobilization.



## Table of Contents

Acknowledgment.....	ii
Executive Summary.....	iii
The coalition for the freedom of information working group.....	v
<b>1.0 Introduction.....</b>	<b>1</b>
1.1. Background.....	1
1.2. Survey Rationale/Justification.....	4
1.3. Survey Objectives.....	8
1.4. Survey Methodology.....	8
1.5. Study Area and study population.....	9
1.6. Research Instruments.....	10
1.7. Data Analysis and quality Control.....	10
1.8. Limitations to the data collection methodologies.....	10
<b>2.0. Research findings and analysis.....</b>	<b>11</b>
2.1. Requests for any information in possession of the state and organs.....	11
2.2. Kind of information requested.....	11
2.3. Government Departments where requests were forwarded.....	12
2.4. Reasons why some did not request for Information.....	14
<b>3.0. Responses to the requests.....</b>	<b>18</b>
3.1. Time of receiving the response.....	19
<b>4.0. Costs incurred.....</b>	<b>22</b>
4.1. Costs incurred by those with a response.....	22
4.2. Costs incurred by those with no response.....	23
<b>5.0. Denial of access to information.....</b>	<b>25</b>
5.1. Action taken by the respondents denied information.....	31
5.2. Support to access information.....	33
<b>6.0. Conclusions and Recommendations.....</b>	<b>36</b>

## List of Figures & Table

<b>FIGURES</b>		Page
FIGURE 1:	Percentage of Respondent Requests for Information.....	11
FIGURE 2:	State Departments where Information Requests were forwarded.....	13
FIGURE 3:	Reasons advanced for not requesting for information by the Respondents.....	14
FIGURE 4:	Responses to the requests.....	18
FIGURE 5:	Costs incurred by the respondents in accessing information.....	22
FIGURE 6:	Support to Access Information.....	33
<b>TABLE</b>		
TABLE 1:	Time of receiving the response.....	19

## 1.1. Background

The importance of the right to access information cannot be overemphasized. It among other notions strengthens democracy (informed decision making by the populace on various government policies and representatives based on evidence and facts available and accessible); promotes participatory development (opening the formerly closed environment relating to the design and implementation of development paradigms); it is a proven anti-corruption tool (increased transparency when private and public decision making avenues are opened to the public for scrutiny).<sup>1</sup>

In Uganda, the recognition of the right to information dates back to the recommendations made by the Uganda Constitutional Commission (also known as the Odoki Commission) which included the right of access to information as a feature of the right to freedom of expression. The Commission which had been tasked with spearheading the Country into the enactment of a new Constitution by collecting the populace's views stated that;

*“...fundamental freedom of expression and the right to every person to information are vitally important rights, at the centre of the struggle for the defense of human rights and democracy.”<sup>2</sup>*

---

<sup>1</sup>The access to information laws fall within the category of “transparency laws” that reduce the range of opportunities for the embezzlement of public funds by subjecting the administrative decisions and ministry budgets to public scrutiny. According to Transparency International Access to Information Laws help to;

*“Make a government more open and accountable to its people. In transitional democracies, laws that give effect to the right to information are part of the process of transforming a country from one with a closed and authoritarian government to one governed by and for the people.”*

See Transparency International, ‘Using the Right to Information as an Anti-Corruption Tool,’ at 5.

<sup>2</sup>See Odoki Commission Report as cited in Vincent Babalanda, ‘It’s your Right to Get Information’, The Daily Monitor, October 18, 2006.

The Odoki commission further recommended that, “the freedom of expression which includes freedom to research, receive, hold, and impart opinions, information and ideas without interference should apply to all individuals, groups and the media.”<sup>3</sup> Further still, the Commission noted that public officials should be obligated to divulge information which is pertinent to and falls within the ambit of their duties as long as it is not classified as detrimental to national security and sovereignty if and when it is released to the public. The Odoki commission recommendations were consequently incorporated into the 1995 Constitution under Article 41 which confers on every citizen the right of access to information in possession of the state or any other organ or agency of the state.<sup>4</sup>

Any type of information should be accessible by the public with the exemption of information that is likely to prejudice the security of the state or interference with the right to the privacy of any other person. However, there was lack of clarity as to the procedures for accessing information in possession of the state. In addition, the scope of exemptions provided for under article 41 of the Constitution and laws that greatly hinder access to information were still operational and untamed. Public officials were also not very positive in responding to requests for information being bound by the oath of secrecy and other bureaucratic procedures as well as other laws such as the Official Secrets Act. Government was hence obliged to enact a law that prescribes the classes of information referred to and the procedures of access to that information to oversee the implementation of the constitutional right.

---

<sup>3</sup>Id.

<sup>4</sup>It is worth noting that over the past decade, various international agreements, charters and conventions between various state parties have vehemently re-affirmed the right of access to information. Among these include the International Covenant on Civil and Political Rights (ICCPR) which Uganda ratified in 1995; European Convention on Human Rights, the Inter-American Convention on Human Rights and in Africa, the African Charter on Human and Peoples’ Rights(Article 9). Indeed, the African Commission on Human and Peoples’ Rights went further and adopted a Declaration of Principles on Freedom of Expression in Africa. The Principles emphasize the notion that public bodies are simply custodians of information as a ‘public good’ and not for themselves and as such everyone has a right to access this information. See Resolution on Freedom of Expression, African Commission on Human and Peoples’ Rights, 7<sup>th</sup> May 2001. [Accessible on [http://www.achrp.org/Recommendations\\_Resolutions-\\_ACHPR\\_88-02.pdf](http://www.achrp.org/Recommendations_Resolutions-_ACHPR_88-02.pdf)] The declaration is not binding but it is persuasive. The United Nations (UN) General Assembly in 1949 passed Resolution 59 (1) which noted that freedom of information is a fundamental human right and the touchstone of all freedoms.

After the enactment of Article 41, following a private members' bill by Honourable Abdu Katuntu, and the concerted advocacy efforts of civil society organizations under the HURINET-U hosted Coalition for the freedom of information (COFI), the government responded by enacting the Access to Information Act, 2005.<sup>5</sup> The purpose of the Act is to give effect to article 42 of the constitution of the republic of Uganda by providing the right of access to information held by organs of the state other than exempt records and information; promote transparency and accountability in all organs of the state by providing the public with timely, accessible and accurate information and to empower the public to effectively scrutinize and participate in government decisions that affect them.<sup>6</sup>

After the passing the law, the subsequent step was the appointment of an implementation lead agency which is the Directorate of information and National Guidance, one of the departments under the office of the Prime minister. The Directorate is responsible for the drafting of regulations to guide the public in the use of the Access to information Act.

In 2007, Human Rights Network Uganda made an analysis of the Access to information Act indicating opportunities, loopholes and areas of concern. Among the areas of concern was the right of Access and the procedures for access of information from the state institutions. Indeed, section 10 of the ATIA provides that the chief executive of each public body is responsible for ensuring that its records are accessible. This is consistent with the definition of an information officer who, pursuant to section 4, is the chief executive. The information officer bears primary responsibility for the implementation of most of the obligations placed on public bodies. Identifying this position with the leading management figure should at least have the effect of ensuring that these responsibilities are taken seriously within public bodies.

---

<sup>5</sup>The President assented to this law on 7<sup>th</sup> July 2005 and came into force on 20<sup>th</sup> April 2006.

<sup>6</sup>Section 3 of the Access to Information Act 2005.

Additionally, section 43 stipulates that each minister shall submit an annual report to Parliament regarding those public bodies for which he or she is responsible, describing the requests for information made to those public bodies, whether or not access was given and, if not, the reasons for the action taken as such. This however has remained a myth since the commencement of the Act. To this end, no minister has ever submitted an annual report on requests made as per the provisions of section 43 mentioned earlier.

Furthermore, the Access to information Act, 2005 does not include a number of other promotional measures found in many right to information laws, such as an obligation to produce a guide for the public on how to request information, a system to promote efficient record management or an obligation to train officers on information disclosure. Citizens are therefore not efficiently guided by the ATIA on how to demand for information.

It was against such a back ground that HURINET-U undertook a survey, January 2009, to assess the public's use of the existing Access to information law to request for information in possession of the state and its organs. The data obtained from the survey is intended to aid the creation of an Access to Information requests data base and consequently establishing an advisory center which will offer guidance on how to access information in possession of the state and its organs.

This survey report is a product of the data collected and analyzed from different respondents who included civil society organizations (CSOs), Local Government Officers (LGO) and ordinary citizens among other stake holders from four regions of Uganda.

## **1.2. Survey Rationale/Justification**

Pursuant of Section 7 of the Access to information Act 2005, every public body was mandated to appoint an information officer six months after the commencement of the of the Act. This person is in charge of management of information access within a public body.

Each information officer is expected to have compiled a manual which is a guide containing information about the public body and the nature of information it has in stock. However, many of these were not appointed at the time and as such even the attendant duties they are legally mandated to undertake remain unaccomplished.

There was also need to draft the regulations to the Act. It was necessary to make subsidiary legislation in form of a statutory instrument to operationalise the Act. Parliament, under section 47 of the Access to information Act 2005 gives power to the minister to provide for any administrative or procedural matter necessary to give effect to the Act.

The regulations should act as a guide line for the implementation of the Access to information Act and contain all the procedures for accessing records from a government institution. They should guide one on how to make a request for information, what requirements one needs, the government department to request information from and all necessary details for the easy administration and transfer of information from the holder to the requestor of the information in the shortest time possible.

Whereas the Access to information Act stipulates that regulations shall be drafted to guide the public in requesting for information, there is a setback in the implementation of the law due to the cabinet's delay to approve the regulations. At the writing of this report, the status of the regulations remains uncertain as it is said to be before cabinet.<sup>7</sup> This too has created anxiety among the citizenry who by law cannot access any cabinet records.

The remedy to requestors of information has conversely been the fact that the law is still operational notwithstanding the absence of the regulations.

---

<sup>7</sup>The newly appointed Minister of Information during an Access to information dialogue organized by HURINET-U in September 2009 averred that the regulations were awaiting cabinet's approval.

Since the law was enacted, moderate awareness about the right to access information has been registered. A rapid survey of public awareness of the access to information Act in Uganda commissioned by HURINET-U in 2007 indicated that 41% of the citizenry are aware of the law and have utilized it to demand for information.

Notably, the practice of demand for information is coupled with frequent denials of access to information. In February 2010 two Daily Monitor Newspaper journalists filed an appeal in the chief Magistrate's court following denial of access to oil agreements between Government and Oil exploitation companies in the Albertine region from the office of the Attorney General. This and many other cases of information denial continue to be cited in the different regions of the country.

In consideration of the above issues, it was necessary to carry out a survey to monitor the kind of requests made by the public and explore the kind of responses received to consequently develop a data base which can further the Access to information implementation process. The findings of the survey are necessary also to inform the advocacy strategies for the full implementation of the Access to Information law and the highlight the need for the regulations.

#### **Recent Developments-2010 (Strategic Impact Litigation on the ATI Act)**

Charles Mwanguhya Mpagi and Izama Angelo V Attorney General Miscellaneous Cause No. 751 of 2009.

In the above mentioned case, which HURINET supported through its Right of Access to Information project, the implementation of the law was tested. The applicants filed an application under articles 21 and 244 of the Constitution of Uganda. They sought from Court a declaration to set aside the decision of the Solicitor General or his agent of denying them the information (oil production-sharing agreements between the government and the oil production companies) and also that a declaration be made since public interest in the disclosure of the agreements is greater than any harm that may exist to a third party. In the above mentioned case, which HURINET supported through its Right of Access to Information project, the implementation of the law was tested. The applicants filed an application under articles 21 and 244 of the Constitution of Uganda.



They sought from Court a declaration to set aside the decision of the Solicitor General or his agent of denying them the information (oil production-sharing agreements between the government and the oil production companies) and also that a declaration be made since public interest in the disclosure of the agreements is greater than any harm that may exist to a third party. They sought an order to be granted unrestricted access to the record of the production sharing agreements in the public interest. Being a national resource, the applicants argued and rightly so, the people of Uganda own the oil and as thus have a right to know how it is being exploited for purposes of 'efficient, accountable and transparent management.'

On the other hand, the government argued that it could not release the information because there were confidentiality clauses within the agreements and releasing them without the consent of the third parties would be breaching the contract. It was therefore protected under section 28 (1) and (2) (a) of the ATI Act.<sup>8</sup>

In his decision, the Chief Magistrate held that the applicants had failed to prove to the Court's satisfaction that the release of the agreements was in public interest to warrant mandatory disclosure as envisaged under section 34 of the ATI Act. They failed to prove that the public interest outweighs the harm likely to be caused to the third party if and when the agreements are disclosed.

The decision sparked off international and national debate about the young oil industry in Uganda and what is in for the citizens. Even though the case was not successful at the first attempt, it nevertheless brought the issue of government oil exploration management in the public spot light for further debate. This was an achievement. The applicants supported by HURINET have appealed the decision to the High Court of Uganda. At the time of writing this report, the matter is before Courts and as thus sub-judice. Various comments have however been circulating about the judgment.<sup>9</sup>

<sup>8</sup>The section provides for protection of information relating to the privacy of a person unless he /she have consented.

<sup>9</sup>See Jocelyn Edwards, 'Court's Decision On Secret Oil PSAs May Be Unconstitutional,' The Independent, 17<sup>th</sup> February 2010. [Accessible on <http://allafrica.com/stories/printable/201002170338.html> ]

### 1.3. Survey Objectives

The specific objectives of the survey were to;

1. Assess the public's use of the existing Access to information law to request for information in possession of the state and its organs;
2. Scrutinize the kind of requests for information in state possession made by the public and the responses received if any;
3. Assess cases of denied access to information and reasons for denial;
4. Explore practical recommendations to challenges faced by the public in accessing information and also inform future advocacy strategies of the project.

### 1.4. Survey Methodology

Stratified sampling was applied in selecting respondents. This is a sampling technique where the population embraces a number of distinct categories; the frame can be organized by these categories into separate "strata." Each stratum is then sampled as an independent sub-population, out of which individual elements can be randomly selected.<sup>10</sup>

The sampling size was obtained by dividing the population into two distinct categories including the holders and the requestors of the information. Thus a total of 181 respondents were selected to provide credible information on the public's use of the existing Access to Information law to request for information in possession of the state and its organs. Dividing the population into distinct, independent strata enabled the researchers to draw inferences about specific subgroups that would have been lost in a more generalized random sample.

---

<sup>10</sup>Chambers, 2003

The study involved collection of data using key informants, focus group discussions and interviews. Open and closed ended questionnaires comprising of 10 items were used to obtain primary data from the respondents. Data was collected using the face-to-face mode for the key informant interviews and the questionnaires administered on randomly selected respondents from the general public. Key informants were purposively selected based on the positions they held in the public institutions.

The study involved collection of data using key informants, focus group discussions and interviews. Open and closed ended questionnaires comprising of 10 items were used to obtain primary data from the respondents. Data was collected using the face-to-face mode for the key informant interviews and the questionnaires administered on randomly selected respondents from the general public. Key informants were purposively selected based on the positions they held in the public institutions.

Secondary data analysis was also used which included existing literature on Access to information in Uganda's context and other progressive countries in terms of implementation of the law.

### **1.5. Study Area and study population**

The survey was conducted in the districts of Kampala, Mpigi, and Wakiso in the central region, in Lira, Apac, and Amolator Districts in the North, Koboko in West Nile, and in Fortportal, Masindi, Kyenjojo, Kasese, and Kamwenge districts in the Western region. The population was divided into two distinct categories in each region comprising of both requestors and holders of public information. The study population mainly constituted of members from civil society organizations (CSOs), Local Government Officers (LGO) and ordinary citizens

## **1.6. Research Instruments**

Survey instruments were developed as guiding tools to enhance information gathering. These included an interview guide designed for the key informants such as the district council personnel with various questions probing for the different aspects central to the survey. A questionnaire was also designed and applied on the random respondents selected. Secondary sources of information including among others printed literature, internet files were also applied as and when they proved necessary to inform the analysis and discussion of the field findings.

## **1.7. Data Analysis and quality Control**

The data presentation is structured using occurrence/frequency counts, percentages, statistical charts, tables and graphs. Qualitative data was synchronized using a master sheet categorized according to the study themes and sub-themes (objectives). Both qualitative and quantitative data are presented concurrently in the report.

## **1.8. Limitations to the data collection methodologies**

The survey respondents were mainly members of the public who had made formal information requests from government departments. The results of this study there fore may not be a clear indicator of all kind of requests made by the general public including informal requests

## 2.0

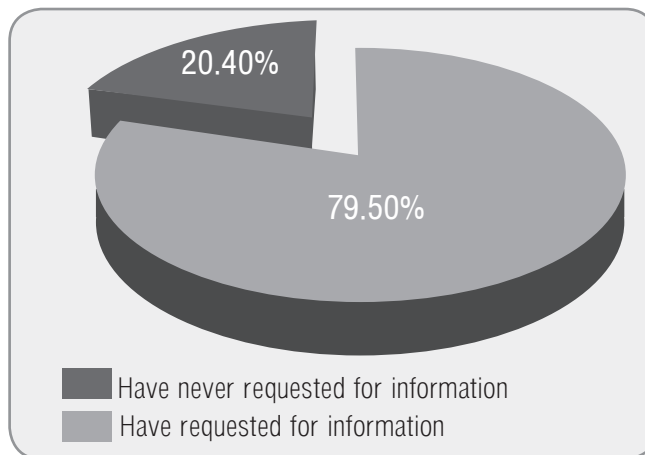
# Research findings and analysis

### 2.1. Requests for any information in possession of the state and organs

The total number of respondents was 181. Of these, 79.5% (144) admitted to have requested for information before from a government agency while 20.4% (37) have not requested for any information from any government entity.

**FIGURE I:** Percentage of Respondent Requests for Information

*(Survey Question: Have you ever requested for any information in possession of the state and its organs?)*



### 2.2. Kind of information requested

The kind of information requested was diverse and as thus it is presented qualitatively. It mainly included the local council committee minutes (the different committees at LC III level); procedure of district contracts committee; the NAADs funds and the various programmes there under; information relating to the health state of the district hospitals/ health centers especially the non-existence of drugs among other concerns.

The other entailed financial-budget-spending at district level (the planning Unit of the district) and education related aspects including performance of Universal Primary Education, the scale salaries of teachers among others notions.

The other subjects of interest included the Oil (Tullow Uganda, BIDCO oil projects among other oil related inquiries/operations) and their impact on the environment; additionally was also information relating to Production Sharing Agreements on oil. This is partly because of the increasing public interest in the young oil industry in Uganda and the surrounding state secrecy around the oil licensing deals.

Following closely is the government poverty alleviation program dubbed '*Bona Baggagawale*' (let all be rich) procedures and how one can access the funds given out from the programme spear headed by the Office of the President and the Ministry of Finance. The Police works related to justice attracted attention. Information was sought on various aspects ranging from the state of detention centers, Police procedures of enforcing justice, law and order including arrest, crime statistics (crime report), treatment of juveniles, and inquiry about suspects among other related aspects. The NUSAF project for the reconstruction of Northern Uganda, its programmes and how to access funds from the fund also attracted attention.

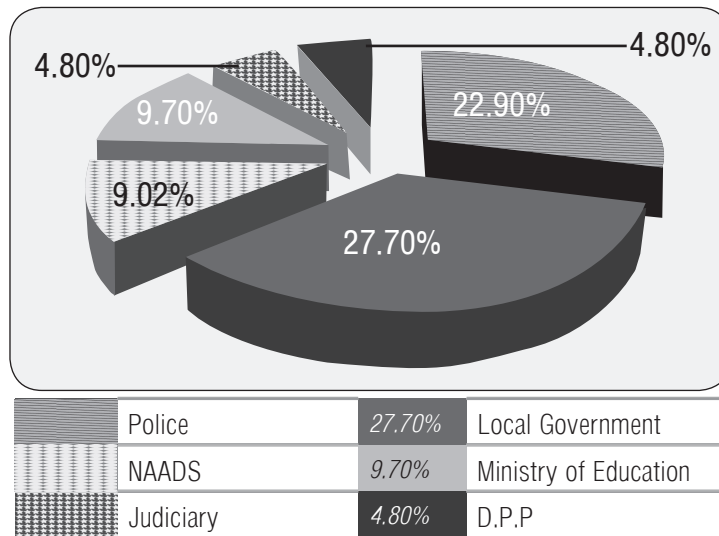
### **2.3. Government Departments where requests were forwarded**

The respondents that requested information went to various government entities both local and central government cutting across all the three arms of government namely the Executive (various ministries), Judiciary (the courts) and Legislature. Out of the 144 requests for information made, 22.9 % (33) were forwarded to the Police; 27.7% (40) were made to the Local Government; 9.02% (13) made to NAADs Personnel; to the Ministry of Education, 9.7% (14) requests were made; 5.5% (8) were geared towards the Judiciary; 4.8% (7) was towards State Attorney's Office (Director of Public Prosecutions); 3.4% (5) towards the Ministry of Defence;

Ministry of Lands got 3.4% (5) as well. 13.19 % (19) covers the ‘others’ which was shared between Prisons, National Environment Management Authority (NEMA); President’s Office, Vice President’s Office; Ministry of Planning and Economic Development, Ministry of Gender, Labour and Social Development, Electoral Commission, Inspector General of Government, Ministry of Internal Affairs, and the National Social Security Fund (NSSF). The requests made to the Local Government included various departments including the Planning Unit, Health department, the Chief Administrative Officer among others.

**FIGURE 2:** State Departments where Information Requests were forwarded

*(Survey Question: If your answer in 1 above is yes, which government department did you forward the request to?)*



As can be observed from the above, the most prevalent requests revealed by the research were mainly geared towards the Local government partly because it’s charged with bringing services closer to the people in the decentralized government mode that Uganda practices.

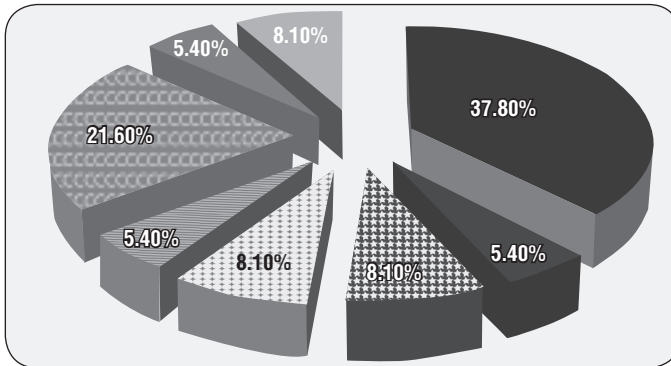
Thus being the nearest government entity to the people, would partly explain the large number of requests received. According to the key informants interviewed at the local government level, most local leaders are aware of the citizens' right to access information in possession of the state and its agencies. They are also aware of the existence of the Access to information Act, 2005. However, some key informants noted that they have not yet 'internalized' the all provisions there under to fully give effect to its demands.

### 2.4. Reasons why some did not request for Information

Of the 37 respondents that did not request for information from the government, all provided reasons why they have not requested for any information among which are discussed below.

**FIGURE 3: Reasons advanced for not requesting for information by the Respondents.**

*(Survey Question: If your answer is no in 1 above, give reasons as to why you have not requested for any information from the government and its organs?)*



- Ignorance of the Law
- Satisfied with the Government
- Indifferent
- Had other avenues of getting information
- Fear of the State
- Government cannot release Information
- Long Period
- Government is not cooperative/unfriendly



\* **Ignorance of the law on Access to information and attendant rights**

37.8% (14) of the respondents revealed that the overriding reason barring them from requesting for information was ignorance of the existence of the law relating to the law of access to information. Additionally they did not know the forum (WHERE) to seek information; the responsible persons (WHO) to approach in a particular government entity; the Procedure (HOW) of getting the information and which information is unrestricted (WHAT).

\* **Respondent-Government satisfaction**

On the other hand, 5.4% justified their not-requesting for information noting that they were satisfied with government and its work and saw no need what so ever to demand for any information from any state agency.

\* **Indifference and the ever increasing 'I do not care attitude'**

Another portion of the respondents comprising 8.1% was indifferent and claimed to have no time to engage the local leaders in possession of this information; a clear manifest of the 'I do not care attitude' arising from a prior bad experience with the government, frustration, helplessness and indifference.

\* **Preference for other sources of information other than government**

8.1% noted that they had not requested for information because they get it from the radios, the television, newspapers, and magazines. This further emphasizes the fact that more people in the country depend on the media for public related information and accountability of public offices among other topical national debates. Consequently, various advocacy, sensitization and capacity building initiatives should focus on among other stake holders, the media since a large portion of the public relies on them for information.

Arguably, the fact that some respondents noted that they accessed information from the newspapers, radio etc and as thus saw no need to request for the same has ramifications. Positively, it would mean that some of the public institutions practice '*active disclosure*' of information<sup>11</sup>. This entails making information of interest to the beneficiaries (concerning the institution activities, goals, expenses inter alia) available to the public in an appropriate way through various communication

---

<sup>11</sup>Under the Ugandan ATI Act, section 8 there under provides for 'disclosure and automatic availability of certain records' such as 'the categories of records of the public body that are automatically available without a person having to request access under this Act.'

modes such informatical media regardless of individual requests. Active disclosure eases the work of information officers since the required action becomes simply to inform an applicant of such published information where, when and how the requested information was published.

**\* Fear of the State; the need to demystify the state structure**

Another portion, 5.4% averred that they have not asked for information due to fear of the State generally and the state security machinery. The perception of the state as a machinery someone should stay away from if he or she can contributes to this state of affairs. This partly arises from the 'closed nature' of the state where everything is done in secrecy in the name of 'officialdom'. Openness through free access to information within state's possession can help demystify the oppressive image of the state.

**\* Resignation/untrustworthy of the state**

Others, 21.6% felt that there was no need trying, for the state '*...cannot give information to everybody...apart from their agents only...*', hence one cannot expect or anticipate any positive answer from the state. To them, it is simply not realistic that the state can provide information.

**\* Long, tedious process**

Additionally, 5.4% of the respondents expressed concern over the long process involved in every government oriented initiative including Access to information procedure mechanisms. For this reason, they averred that they cannot endure the 'long processes associated with government programmes.'

**\* Non-Co-operative/poor customer care relations by state institutions**

The government especially the local government is not co-operative, is unfriendly according to 8.1% out of 37 respondents that did not request for information. This was a barring factor for them as they could not endure the '*...frowns and suspicions that greet you when you arrive at the local government offices.*'

The above responses present two patterns that underlie the restraint surrounding requesting for information. The overwhelming reason being the ignorance surrounding the existence of the law. Within this broad category are some respondents who are knowledgeable about the existence of the law but are handicapped in as far as they are not well conversant with the procedure that

they can use to access the information from the public institutions. The other portion entails those respondents who heard of this law for the first time during the survey, totally ignorant of its availability and how they can use it to hold their leaders accountable.

The other pattern clearly exposed is among many, the continued suspicions, fear, indifference, untrustworthy perceptions that the populace seems to have of the government. This perception informs the action of the populace in regard to whether to seek or not seek information. Such categories of people include a majority who are aware of the existence of the law but do not trust that it is for them to use and are doubtful that even if they attempt to use, the state will not oblige with their request and at the worst, it will misunderstand them as opposition elements.

The above observations call for rigorous awareness campaigns on the right to access information to the general populace for only then can it be useful. The findings also point to the need for the regulations to operationalise some of the provisions within the Act detailing the procedure of attaining information from the public entities. The existence of the ATI Act without the accompanying procedural regulations renders the Act redundant. The two have to go hand in hand just like knowledge of the existence of the Act moves closely with knowledge of procedure of accessing the information one may need.

The above noted perceptions of indifference can also be progressively overcome through awareness campaigns and also training of information officers of their obligations to the populace as partial implementers of the law. Conclusively, the above require a concerted effort both on part of the government and the civil society to work towards the full implementation of the law and enable its usage by the populace.

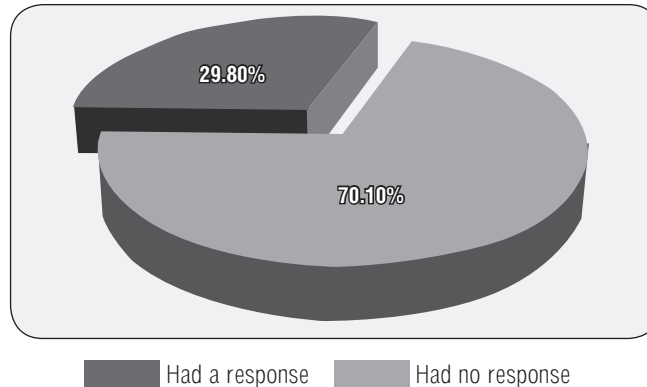
## 3.0

# Responses to the requests

Responses to requests for information from the different government entities are telling. As the figure below depicts, of the 144 respondents who had ever requested for information before, 70.1% (101) had had a response from the government entity from which they had made their requests (whether positive or negative) whilst 29.8% (43) had not received any response whatsoever.

**FIGURE 4:** Responses to the requests

*(Survey Question: Did you receive a response to the request?)*



Progressive as the number depicts, there is need to note that the responses received varied and not all were preferable precedents that can be applauded. Some responses entail respondents who were denied the information they sought with or without any justifiable reasons as is discussed in part 5. In this case, the denial for the requested information was also taken to be a response.

Some respondents had their responses whether negative or positive way beyond the prescribed time within which an information officer is obligated to communicate to a requestor about his/her request. The above shortcomings notwithstanding, the fact that requestors got a response is a beginning point of reference from which other related aspects such as time of response, the legality of the response (especially if it is a denial, how tenable is it in the law?) can be analyzed and improved.

### 3.1. Time of receiving the response

Of the 101 who had had a response, the time-intervals of receipt or response varied accordingly. Consequently, 11.8% (12) had gotten the information they requested on the spot-immediately; 6.9% (7) in one day; 28.7% (29) within a weeks' time;<sup>12</sup> 3.96% (4) after 2 weeks; 19.8% (20) took 21 days to get a response; 0.99% (1) in one month; 0.99% (1) in 6 months; 20.7% (21) in 3 months; 2.9% (3) in one year whilst 0.99% (1) the wait for a response is still ongoing at the time of the survey. 1.9% (2) had no response to the question.

**TABLE 1:** Time of receiving the response

*(Survey Question: If yes (on being asked if the respondent had received a response to the request), how long did it take you to receive the response?)*

	TIME OF REPOSE	FREQUENCY	PERCENTAGE
1.	On the spot-immediately	12	11.8%
2.	One day	7	6.9%
3.	One Week	29	28.7%
4.	A Fortnight (2 weeks' time)	4	3.96%
5.	3 weeks	20	19.8%
6.	One month	1	0.99%
7.	3 months	21	20.7%
8.	6 months	1	0.99%
9.	One year	3	2.9%
10.	Ongoing	1	0.99%
11.	No response	2	1.9%
	<b>TOTAL</b>	<b>101</b>	<b>99.63%</b>

<sup>12</sup>This includes 2 days, 3 days or 5 days.

The above question aimed at testing some of the key elements of an access to information law's effectiveness namely the 'ease' within which the information can easily be accessed, the 'inexpensiveness' of the procedure of accessing information and finally the 'promptness' of response in light of a request.

It should be noted however, that the time spent has partly to do with the type of information requested. While some officials did provide information immediately because it was 'risk free', others had to wait to get 'authorization' from their superiors hence the time lag. In some instances, respondents averred that the long periods of waiting were unwarranted but used as a 'technique' by the concerned government officials from whom information is requested to frustrate the person seeking it and eventually persuade him/her to 'facilitate' the process and get the information in time.

'Facilitation' here takes the form of money which does not go in the government consolidated fund but to the individual persons in the government department. Poverty affects how, who and when one gets information. Those with money can 'facilitate' the process and get results as soon as possible even through informal means. In contrast those unwilling to pay for the information have to wait longer to get it if they do get it.

The Act provides for 21 days within which an information officer is supposed to respond to a request for access or 'as soon as reasonably possible be in any event within 21 days.' Indeed, majority of the respondents, totaling to 72 (71.2%) got their information within 21 days which was progressive in as far as the above provision of the law was adhered to. However, this applauding comes with reservations as some of the respondents had to 'facilitate' the expeditious nature within which they got the information by paying off the concerned officials. In other instances, it was the nature of the information sought that facilitated its quick release within the prescribed 21 days. Such information was classified as 'risk free' by the respondents. It was risk free in as far as the information officers were content that it would not 'jeopardize' their work or relationship with their supervisors if and when it is released.

So, it would be early to celebrate the implementation of section 16 of the Act (adherence to the prescribed 21 days) since the survey reveals that it is applied selectively depending on the information and how 'risk free' it is. It is however worthy recognizing that there is progress however slow and besides, a lot of factors determine the time span within which one receives the requested information, some of which justifiable even when it takes longer than prescribed. However, even in such circumstances when the information requested will take time to process, still the time within which should be reasonable in order not to give lieu to information officers to take solace under the untenable arguments of the *'bulky information requires more time to process.'*

In the same vain however, the legally sanctioned time framework within which a public institution is supposed to respond to access to information request, the 21 days is long, some respondent journalists noted. When tested against other jurisdictions, for instance in Serbia, there is time frame of 15 days within which public institutions are supposed to respond to a request. In situations of emergency where a person's life or freedom is threatened, then the request has to be answered within 48 hours. In Peru, the law provides for 7 days within which a request has to be attended to. Absence of such provisions in Uganda's access to information law makes it hard to have the request processed in the shortest time possible.

The survey further reveals that there is lack of coordination in some public institutions. Indeed, in some instances where the official concerned attests to the fact that the institution does not have the required information, then the act of forwarding the request to the relevant authorities suffices. However, the survey notes that this culture is still non-existent hence the requestor has to continue the chase even if a simple forward of the request from official to official would have disposed off the burden. It is worth noting that the ATI law mandates the information officers under section 13 to transfer requests made to them but in possession or in control of other public bodies to these respective bodies. The information officer is then obliged to notify the requestor of the transfer, the reasons for the transfer and the time frame within which the request will be dealt with. This provision, the survey found, remains unutilized as some of the respondents noted that instead of their request being transferred, they as individuals were instead referred to the particular public body which often meant starting the process from scratch.

## 4.0

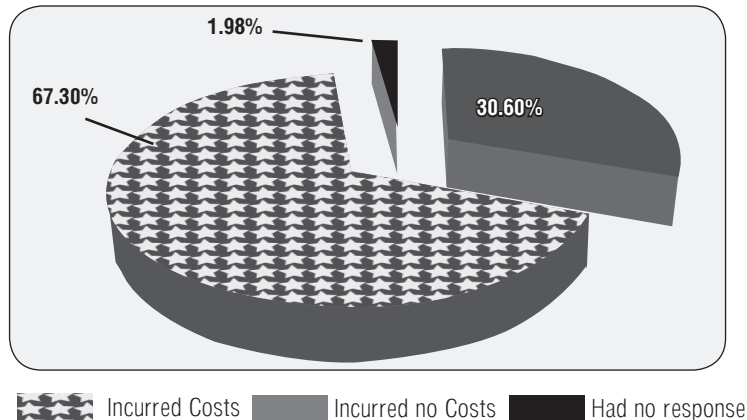
## Costs incurred

### 4.1. Costs incurred by those with a response

Of the 101 people who had a response, 30.6 % (31) admitted to having incurred costs to get the information requested whilst 67.3 % (68) said they had not incurred any costs in pursuit of the information. 1.98% (2) did not respond to the question.

**FIGURE 5:** Costs incurred by the respondents in accessing information

*(Survey Question: Did it cost you any amount of money to access the information?)*



Of the 31 respondents that averred that they had incurred costs to access information, amounts paid ranged from less than 25,000/= (\$ 22.5) to more than 60,000/= (\$ 30). Responses relating to this can be categorized into four namely; respondents who paid less than 25,000/=



## **4.2 Costs incurred by those with no response**

Of the 43 respondents that had no response after the request, 32.5% admitted to having incurred costs despite the fact that they ultimately had no response; on the other hand, 44.1 % incurred no costs while 23.3% did not respond to the question.

The survey highlights there were expenses incurred by some respondents as a means to gain the information they needed. The costs were two fold all with the ramifications on the future of the law and its implementation.

### **a) Direct costs**

These were paid to process the information required (actual costs of retrieval and reproduction of the information). They included photocopying or/and printing fees depending on the form in which the requested information was stored. Whereas these costs are direct, acceptable and necessary to facilitate the process, in some instances, respondents noted that they were exorbitant compared to the average pricing the same process (such as photocopying) have cost to have such work done on the prevalent commercial value. This was attributed to the fact that the concerned public officials do not accept the information to be taken outside the public building realm for cheaper reproduction. Consequently, they would utilize this restriction to charge as they will, knowing that the requestor has no choice whatsoever but to pay the charged fees. The fees become unbearable especially when the information requested is in bulk (many pages) such as district year plans.

### **b) Indirect costs**

These included transport costs, telephone costs (air time) among others that respondents incurred in the quest to have the information they needed. There are incidental to the direct costs above and as such not so direct. There is nothing anomalous with transport costs to a government department to seek information. Indeed, there is nothing odd with a phone call to follow up a matter with a public official especially if there has been already initial contact.

The problem, the respondents averred, arises when due to the ambiguity and uncertainty in procedure by some public bodies, the above costs become inflated and as thus a likely deterrent factor for future requestors of information. The costs rise due to constant trips made to and from the public body as one is given no definite time of availability of the information but he or she is urged to *'keep checking on us.'*

The notion of 'checking on us' here takes the context of repeated phone calls to particular official or repeated trips to the public body only to find that the concerned official is in a long meeting, taken maternity leave, out of office among other unsatisfactory reasons. Such loopholes in procedure, it can be argued, increase the costs for gaining access to information hence likely to dissuade applicants and negate the importance and purpose of the law. Arguably, if such indirect costs would have been avoided if there was a clear procedure in accessing information.

### **c) 'Facilitation fees', putting a human face on corruption**

The other costs are deemed *'facilitation'* fees often handed down to public officials concerned with releasing the information requested to *'facilitate'* the process. This in simple terms is corruption often humanized with sympathetic and acceptable yet contemptible notions such as *'facilitation.'* This too is undesirable as it raises information to a commercial value hence ushering in the notion of 'he/she with money parts with the information', yet it is supposed to be free apart from of course the likely fees to process it. By raising the process of information accessing to a commercial level, this renders the poor communities unable to access it since they cannot afford this *'facilitation'* fees. Once again, it should be noted that such vices flourish where there exists unclear procedures as the situation seems to be today especially with the absence of the regulations to the Act.

## 5.0

# Denial of access to information

Respondents who had noted being denied access to information were asked if they were given adequate reasons for the refusal and if so, what these reasons were. Varying reasons were given for the refusal. Whereas they (reasons for refusal) would not be quantified because they were diverse and numerous, arguably they can be categorized into two notions. Arguably, some reasons were arising from the government's side (government oriented refusals); either administrative or simply malicious, baseless and untenable in law while some refusals were occasioned by non-fulfillment of the simplistic requirements needed by the information officers from the requestors such as formal request letters, identification card among others (requestor-oriented/occasioned refusals). The most outstanding included the following;

### REASONS FRONTED BY STATE INSTITUTIONS TO JUSTIFY DENIAL OF INFORMATION TO REQUESTORS

#### 1). Government Oriented Refusals

##### a). Administrative/Procedural hurdles

- \* Information not in the work plan of the government and therefore not available,
- \* Information requested was still in raw form awaiting processing hence could not be released, respondents were advised to 'keep checking on us' with no definite time within which it would be readily available.
- \* Some respondents were advised to keep waiting, the information was soon to be availed, (It was ready and available but not to the requestor at that moment. This is different from the above notion where the information was still in raw form).
- \* Others were told to wait until the information officer has 'consulted the higher authorities.'

**b). Exception from Access related refusals**

- \* Confidential/classified information- with security implications if and when comprised by releasing to the public,
- \* No reasons given,
- \* Government agency not obliged to give the particular information,
- \* Not yet open to the public,

**c) Others**

- \* The same information is available in the newspapers, no need 'to burden us with something already known',
- \* Information unavailable,
- \* The concerned official is out of office,
- \* Information is in the 'strong room' (restricted entry) and the concerned official is not available,
- \* Officer 'clandestinely' asked for 'facilitation' and the respondent did not have it,
- \* Supervisor not available to sanction the release of the information,
- \* The district is still new and so are the staff and as such need time to 'stabilize'
- \* NGOs are looked at suspiciously for they are critical of the government and as thus, they are 'opposition elements.'

**2). Individual (Requestor) Oriented Refusals**

- \* No presentation of an official letter demanding for the information (formal request),
- \* No valid identity card yet it was required and as thus, the information would not be released to a person that cannot be identified or cannot identify self.

The above responses highlight different notions in relation to the current legal and administrative regime of the Access to Information campaign worth scrutinizing.

### **Traces of adherence to progressive principles**

Indeed as some respondents noted, they were 'denied' information on grounds that it had already been published and as thus was in the public domain. Whether done deliberately as policy or mistakenly, the move can be applauded as adhering to the 'obligation to publish', an important principle underlying a good access to information law which is also incarnate in the ATI law in Uganda. This requires the public bodies to disseminate documents/information of paramount nature to the public detailing among other notions, how the public body works, the mode of decision making especially on issues affecting the public.

This trend was noticeable at the Local Government Level where the local officers concerned with publicizing particular information disseminate it by use of district notice boards which are often pinned at the district headquarters. Other modes cited included the community radios transmitting in the local language of the host communities through talk shows where different aspects concerning a particular government agency are talked about with the concerned officials as a means of releasing information on the different activities, policies and plans of action to inform the public. Notably, were also the publication of the district development related initiatives and programmes through local papers such as Rupiny which use the local language.

### **Absenteeism of Public officials; the notion of 'personified-oriented management'**

In relation to the absence of the concerned official and as thus inability to release information sought, varying reasons were forwarded. These included maternity leave, study leave, week long workshop, seminar, meeting among other excuses. The respondents wondered and rightly so whether these public officials go with the public office with them to render it non-functional in their absence!

This highlights the personalization of public offices in government rendering established management procedures a sham hence ushering in 'personified-oriented management' rather than the desirable 'procedure-oriented management' such that once the procedure of attaining information is established and known, it does not matter who is in the particular concerned office, transaction of business can still prevail unfettered absenteeism of the public officials.

In the same vein, the key informants interviewed noted that the information officer has to have an assistant to help in the event of various factors that would render the information officer unable to perform his or her duties. They noted that some times the work is overwhelming with too many requests coming in from different sources (including internal) that at times, the information officers can only do so much within the available time.

### **Refusals in the name of ‘national security’; the ever present scapegoat by officials**

Interestingly, the survey revealed that where information was denied, where as in some instances the public officials did fall back to the exceptions to justify the refusal, most reasons fronted were administrative in nature ranging from the absence of the concerned official to lack of an identity card by the requestor to ease identification. Thus, the notion of ‘limited scope of exceptions’ was not widely tested as not so many officials sought refuge there under to frustrate the process or the requestors.

The above notwithstanding, in instances where the exceptions were invoked, they were as blunt as a simple refusal followed with the common phraseology of ‘national security issues.’ This argument is an import of section 32 of the ATI Act which mandates an information officer to refuse a request for access if its disclosure is likely to ‘prejudice the defence, security and sovereignty of Uganda.’ Legitimate a ground as it may be to justify refusal of releasing information, the requestors/respondents noted and rightly so that they could not verify the truth of the matter as the officials would not sufficiently explain the need for restriction on such information.

Indeed, one would not be at fault to deduce that the notion of ‘national security’ as an exception for refusal to release information remains a threat to the full implementation of the access to information law. Further, it is a challenge to requestors of such security related information as it continues to be projected as a no go zone for the public.

Such reasoning (of national security concerns) continues to highlight the ever present friction between the need to preserve national security and the obligation to give effect to the law on access to information. A neutral ground/striking a balance to have both notions respected remains elusive. Indeed the ambiguous/secretive nature surrounding the notion of ‘state security’ has

only exacerbated the already precarious situation. This obstructs the full implementation of the rule of 'maximum disclosure.' The exceptions should be minimum and understandable preferably comprehensively explained but 'narrowly drawn.' (page 5)

Some reasons for refusal were alarming and indeed untenable both in law and administrative procedure. Some respondents as noted above were denied information just because the officials were not satisfied with the reasons why the requestor wanted the information. This 'requirement' is a direct infringement on the provisions of section 6 of the ATI Act which expressly highlights that a person's right of access is not affected by 'any reason the person gives for requesting access or the information officer's belief as to what the person's reasons are for requesting access.' The notion therefore, as the survey revealed, that public officials concerned with providing this information can decline to release it based on flimsy grounds that they are not satisfied with the reasons given by the requestor as noted above is illegal and ought to inform future sensitization campaigns especially targeting information officials.

Indeed, this 'requirement' raises questions of how to determine the so demanded 'satisfaction', of a public official. This administrative discretion is open to abuse and as thus can frustrate requestors.

Whereas the courts have pronounced themselves on the issue, the practice continues to be different. The burden of proof lies with the state to prove that the information sought cannot be released as it is detrimental to national security among other notions. Rather it is not the requestor to justify the need for the information.

The burden goes beyond mere mentioning the exception rather concrete evidence has to be produced to substantiate the government's argument. Such a model, of requiring satisfaction on what the information sought is going to be used for, would be tantamount to asking the requestor to justify why he or she has to exercise his or her right to access information. This would be contrary to the spirit of the constitution generally and more specifically article 41 thereof and indeed section 6 of the ATI Act.

The survey revealed that the notion that the right of access to information a legally enforceable right beyond the administrative realm seems not to have gained due recognition from the public/state institution officials. If anything, it is the public institution or the concerned officials that have to provide legitimate and justifiable reasons for declining to offer the information requested. In such circumstances as the above and the ambiguity of an appeal mechanism to challenge such decisions continues to be a stumbling block to the full implementation of the law.

### **How prepared are public entities to enforce the law?**

The responses also highlight the still prevalent lukewarm level of public bodies' preparations and abilities (readiness) to work towards the full implementation of this law. The process to facilitate access to information still remains wanting as respondents noted and rightly so that there were no established procedures with the internal systems of the bodies approached, to deal with requests for information. No one seems to know who does what and when and how when a request is made for particular information. Not only is such a situation a breeding ground for corruption among other vices, it is also frustrating to the requestors of this information in absence of an established procedure of accessing information.

The above continues despite the provision under section 7 of the ATI Act which provides for the information officer of a public body to compile a manual of functions and index of records of the public body. The key informants interviewed at local government level decried the fact that there are no manuals that have been published despite the law providing for this. This, many attributed to the fact that the ATI is not a priority area/issue in the local government and as such it is not given that much attention.

From further deliberations with key informants, it was noted that there has not been any harmonization of the internal information flow system to facilitate easier access of information even after the coming into force of the Act. Indeed, it was discovered that there exists different departments at for example the local government level each generating different types of information. Thus, the information officer, in absence of an harmonized central system of information collection, is tasked with keeping abreast with developments that unfold at the different departments. This, it was noted is cumbersome especially when it comes to departments that are protective of their information and as thus don't co-operate with the information officers.



The survey also noted that the respondents who were denied information were not notified in writing stating substantive reasons why they had been denied the information. This is contrary to the provisions of section 16 (3) of the ATI Act which underlines the obligation on part of the information officer not only to 'state adequate reasons for the refusal', but also include the provisions of the Act relied upon for the refusal. This notice is necessary to facilitate an appeal by the aggrieved party should he or she decide to appeal the decision. The absence of such a notice renders the appeal process difficult as there would be no record to base one's appeal grounds.

### **5.1. Action taken by the respondents denied information**

Among the respondents, some took different action after being denied information. Among the courses of action pursued include;

#### **ACTION TAKEN BY THOSE DENIED INFORMATION**

- \* A majority gave up on the information /No action taken.
- \* Some persisted and their efforts paid off after repeated trips to the government entities where they sought the information
- \* A wide section sought the indulgence of higher office with a supervisory role over the one they were requesting information. Among this group, some were successful while some said that even with the involvement of higher officials; they still failed to get a favourable response.
- \* A minority reported to the Uganda Human Rights Commission to seek their indulgence.
- \* Some tried alternative sources such as the internet and other government departments dealing in similar issues.
- \* Some are still waiting.
- \* A majority opted for the 'informal channels'; 'facilitated' the other members of the same department (Providing something in exchange for the information)

The different options taken after the refusal to receive information as requested by the different respondents highlight the various weaknesses in the prevalent law. The established appeal mechanism (complaints mechanism) should one be denied the information requested unreasonably

or with out satisfactory justification under the law is still lukewarm and unclear. The ATI law under section 16 (2) (c) and (3) (c) hints on an internal appeal mechanism for grievances by a requestor concerning notions such as access fees to be paid, procedure among other likely queries. This is as far as an internal appeal mechanism is mentioned. The law is not express on the procedure and the higher office to which one can appeal.

Consequently, the respondents denied information have or seem to have no recourse what so ever under this mechanism due to its vagueness apart from the Court option as provided for under section 37 of the Act.<sup>13</sup> Because of the technical nature of courts, the mass resources required in form of both human and monetary resources, it is restrictive in nature as a mode of redress in case one is aggrieved.

It is because of the above shortcomings in the available modes of complaints mechanism that may have prompted many of the aggrieved respondents to resort to various means, both legal and illegal (such as corruption) so as to have their requests fulfilled. The possible mechanisms available in other countries include administrative appeal involving the denying body to review or revisit their decision, a practice that would ease complaints mechanism if fully adopted and implemented in Uganda.

Other jurisdictions such as Bosnia have Information Commissioners to who people with grievances concerning their requests for information are handled if not satisfied by the staff concerned. Additionally, in some states, one can have recourse to the courts of law. Some of these remedies are cumulative (successive in nature until one reaches the court as the last recourse of redress) yet in some countries, one can go directly to courts as is the case in Uganda. An administrative appeal process is ideal in as far as it is cheaper and may take a longer time and also non-technical in terms of legal related notions unlike a court case that may not even be accessible to the poor that seek redress as well.

The above should be coupled with provisions of penalty or sanctions against officers found to willfully obstruct an individual from accessing information with out any legally justifiable reason or for unjustifiable delays.

---

<sup>13</sup>Section 37 of the Act provides for complaints to the Chief Magistrate's Court against the decision of an information officer and thereafter if not satisfied, an appeal to the High Court within 21 days after the decision of the Chief Magistrate is communicated to the applicant. Further provisions are provided for under sections 39-42 under the general Part V of the Act on Complaints and Appeals.

This would then be an incentive for the concerned officials/bodies subject to the law to comply strictly with the provisions therein to avoid the prescribed sanctions. The complaints mechanism above and the penalty provisions can effectively form part of enforcement mechanisms available to implement the law decisively.

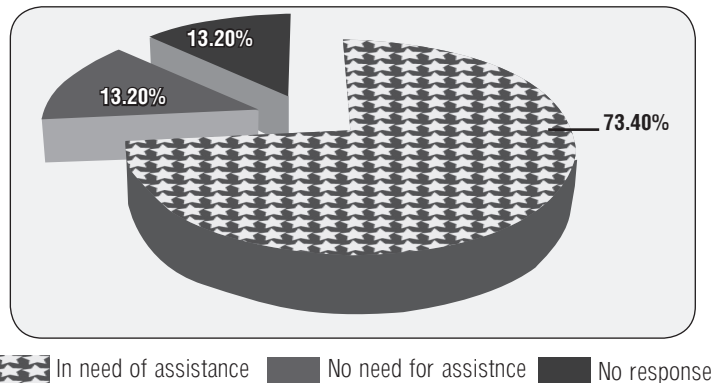
## 5.2. Support to access information

Respondents also shared their various views on what should be done to help in the implementation of the ATI law. Of the 37 respondents that said they had never requested for information, 67.5% (25) said they need assistance to access information while 24.3% (9) did not respond to the question. Of note is a minority of 8.10% (3) who when asked as to whether they would need assistance to access information in possession of the state answered in the negative.

Out of the 144 respondents who requested for information, 75% (108) said that they needed assistance while 14.5 % (21) said they did not need it. 10.4 % (15) did not respond to the question. Over all, out of the 181 respondents, 73.4% (133) said they needed assistance whilst 13.2% (24) averred that they don't need any assistance. Similarly, 13.2% (24) did not respond to the question.

**FIGURE 6:** Support to Access Information

*(Survey Question: Do you need assistance on how to access information in possession of the state?)*



The assistance requested included the following;

- \* Sensitization/awareness about the Right to Access of information to the general public as well as the government officials (especially in the local government) and security organs such as the Police in the various offices,
- \* Regulations to operationalise the Act is long overdue; should be enacted in a user-friendly, precise style to allow simplicity and ease of use and reading to the populace,
- \* Strengthen the regional/district Access of Information right coalition so that they can advocate more for the right,
- \* Development of the Right to Access of information monitoring tools or check list to ease advocacy and public oversight over the concerned government officials that deny the public the right,
- \* Translation of the Act and other publications about access to information right in the local languages so that the people can also understand their rights especially the marginalized communities such as the Batwa, the Bennet among others,
- \* Need for more literature on the ATI,
- \* Sensitization to entail clear procedures known to the public outlining how, where and from whom to request for information in a particular government agency,
- \* Need to build the capacity of the journalists on the right so that once they access information, they can pass it on for the wider readership,

- \* Spell out what rights can be invoked under the Act in case of delays or unexplained denials to seek recourse or redress (legal procedure of access and remedies against the parties that frustrate the process),
- \* Sensitization can take the form of radio talk shows, and simple to use booklets to the public explaining the content of the right and other related aspects,
- \* Access to information help-desks in the various government ministries or local governments to act as points of reference incase one is in search of information,
- \* Free and fast access to information for all citizens of Uganda to even accommodate the low income earners who may need the information but do not have enough money,
- \* The information should be provided at a minimum cost if at all one has to pay. The amount should be known so that the government officers do not take advantage of this lacuna and charge exorbitant 'facilitation fees' from the populace,
- \* Define what type of information is restricted, what can be accessed; under what law among other aspects,
- \* Government to update websites and upload this information in this global technology era-need to maximize the technology and the various new inventions.

The findings show that there is a lot lacking in terms of organizational, material, financial, technical, personnel, technological among other requirements necessary to implement the access to information law. The survey revealed that the continued absence of the regulations has had serious ramifications on the implementation and use of the access to information law in Uganda. Specifically, it has meant;

1. Lack of established administrative and procedural matters/forum to be followed by a requestor to access information from the state or its agencies which has ushered in restraint and or wide discretionary powers of the information officers which creates gaps in enforcement of the law;
2. The extent of exceptions provided for under article 41 of the constitution and the categories of information that an officer may refuse to grant under sections 29,30,32 and 33 of the Act remain uncertain creating a situation where such ambiguity is being used by the state to deny the public information in the name of security concerns among other excuses;
3. Lack of clear internal complaints mechanism in case of grievances relating to unlawful refusal of a public official to release the requested information or unjustifiable delays in providing the information.

It is vital for the civil society to continue dialogue with the concerned public institutions and create the necessary partnerships with the sole aim of promoting positive change within these institutions pertinent to the implementation of access to information right. From the foregoing analysis, some recommendations can be concluded as below;

### **Capacity Building**

Capacity building for the various members of the state/public institutions to enhance their knowledge on the importance of accessing information by the populace and generally build their capacity in relation to processing requests. Even though, it is not the predominant role of the CSOs to do this, they can use it as forum to build partnership with the state institutions and ultimately shrink the concealment level customary in the administration of these institutions. The traditional

CSO strategy of government condemnation at every chance available should be complimented with a hand out to work together with the state to improve information management. There is a continuing attitude that the ordinary people have no right to access information in possession of the state. The perception is held both by the populace which still lacks the capacity to assert themselves and the government personnel.

### **Empowering the Law users**

The awareness levels about the right to access of information in state possession are poor among the populace most especially in the rural areas of the country. There is also need to train various stake holders likely to use the law including the NGOs, media, the legal profession, and private business people (especially those vying for government tenders-this tests the corruption in the government procurement procedures) among others.

The awareness and trainings around the use of the law is vital in as far as it creates a national ethos which stimulates the demand for information and as thus leading to action on the part of the government through establishment of response systems. The law can only be given effect if and when the populace knows their rights and how to demand for them. An awakened mass is necessary to keep filing for requests from the various public institutions.

### **Political will**

Having the law is progressive however its implementation is more desirable to give it effect. It is thus vital that the government shows commitment to achieve the maximum use of the law. The commitment should be reflected in among others providing for the regulations to fully operationalise the law. There is also need for administrative reforms aimed at opening up the largely closed institutions run in secrecy and ensuring effective and efficient information management (including IT systems availability, uniformity in filling modes, uniformity in records-archives accessibility procedures).

### **Taking advantage of universal right to know events**

The civil society should also vigilantly take advantage of internationally recognized events that directly affect the recognition and implementation of the right to access of information. Hence, various activities and advocacy initiatives should be organized on or around for example the International Right to Know Day celebrated every 28<sup>th</sup> September of every year to create awareness to the public as well as the government institutions/officials that are supposed to release this information.

### **Monitoring other related laws**

The functioning of the access to information law can easily be frustrated by other laws in place stringent on administrative procedures of a particular public institution. There is therefore need to monitor the whole legal framework and identify what laws or administrative procedures that are likely to impinge on access to information law. Some laws implicitly or explicitly extend exemptions to non-disclosure of information which frustrates the whole process. Arguably, it is vital to have the other laws likely to affect the access to information act to be interpreted, as far as practicable, in an approach unswerving with the access to information law provisions. Such monitoring and documentation of findings inform advocacy initiatives for necessary amendments in such laws among other possible courses of action.

### **The overwhelming need for the regulations**

The absence of guidelines or regulations detailing when and how one can public bodies can give information renders the procedure related to access to information exceedingly arbitrary hence even what should be availed with out charge in the shortest time possible is available only after payment and waiting for a long time. The smaller portion of the population aware of the existence of this right are hampered from exercising it by the lack of concise procedures to follow in accessing information, a lacuna that can be cured by enacting the regulations to the Act.

### **Development of information management systems**

The government has to facilitate its agencies both at central and local government levels to establish, equip and sustain open, accessible internal information management systems to facilitate the process of accessing accurate information in the shortest time possible for the public. This involves appropriate record keeping and record management which go hand in hand.



### **Implementing the Internal Appeals Mechanism**

The government needs to implement the internal appeals mechanism which currently is unclear as provided for in the ATI Act. This mechanism should be impartial, cheap, accessible, and non-judicial to dispose off any grievances by information requestors. It could take for example, the form of a position of Information Commissioner with such varying powers such as review of decisions by information officers and also enforcement powers. This process will allow the populace especially the majority that cannot engage in long court-related battles, to have their cases settled within the available non-judicial but equally effective appeals mechanism.







**Human Rights Network-Uganda**

Plot 94, Old Kiira Road, Ntinda

(Near Ministers Village)

P.O. BOX 21265 Kampala -Uganda

Tel: + 256-414-286923, + 256-414-285362

Fax: + 256-414-286881

E ~ [mail:info@hurinet.or.ug](mailto:info@hurinet.or.ug)/[executive@hurinet.or.ug](mailto:executive@hurinet.or.ug)

Web:[www.hurinet.or.ug](http://www.hurinet.or.ug)