

Access To Information in Africa Project

2013

The Case of Uganda



In partnership with
World Resources Institute
&
International
Development Research
Council (IDRC)

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EXECUTIVE SUMMARY

Uganda has made significant progress in policy and legal reforms to ensure that information in the hands of the government is accessible by the public. In 2005, the Access to Information Act No. 6 of 2005 was enacted to operationalise and give effect to article 41 of the Constitution. Specifically, the Act was intended to: Promote an efficient, effective, transparent and accountable government, give effect to article 41 of the Constitution, promote transparency and accountability in all organs of the state, empower the public to effectively scrutinise and participate in government decisions and to protect persons disclosing evidence of corruption or contravention of the law in public bodies. Uganda's natural resource laws provide for the right to access environmental information within the confines of government. This has wide implications for environmental management as these sectoral laws have largely facilitated access to various information held by public institutions.

The ATI in Africa project's objectives include assisting citizen groups, the public, policy makers and private institutions, as well as other institutions and agencies charged with ensuring that ATI is made available to better understand transparency models and ATI best practices in Africa so that decision making processes are accountable and responsive to the public. Particularly, this project hopes to promote good environmental governance through assessing and understanding institutional challenges in government that will provide answers to policy makers, development partners, governments and civil society to push forward the transparency agenda.

This report traces the history of access to information research in Uganda and the events that have steered the ATI campaign as well as the impact of such events. It documents the key findings of select literature and publications with relevance to ATI in Uganda. It highlights selected court cases that have been brought before Ugandan courts of law that have an impact on ATI, describes the enabling legal environment for ATI and provides an assessment of the Constitution, the ATI Act (right of access, procedures for requesting, appeals, exemptions as well as sanctions), sectoral laws, regulations and other laws that impact on ATI. The report details the findings of what happened when various individuals requested for information from different government institutions using the different provisions in the different laws and assesses the institutional arrangements including the internal systems in place for public agencies to be able to meet their obligations in terms of access to information. The report also provides the results of analysis that was made to ascertain the different avenues through which the government proactively releases information to the public.. It then underscores the areas that require reforms to be put in place with respect to institutional capacity needs among others and proposes key strategies and recommendations for active engagement and taking forward the right to ATI campaign in Uganda.

ACKNOWLEDGEMENT

This report is based on findings of a two year national research on access to information, a project code named the Access to Information in Africa Project, “ATI in Africa Project” jointly implemented in 3 African countries namely Ghana, South Africa and Uganda. The survey was conducted by the Open Democracy Centre (ODAC) in S. Africa, the Centre for Democracy and Development (CDD) in Ghana and Greenwatch in Uganda.

This report was written by Harriet Bibangambah, Dan Ngabirano, and Irene Ssekyana and edited by Kenneth Kakuru.

Information requests were made to the following institutions; the National Environment Management Authority (NEMA), the Uganda Wildlife Authority (UWA), the Petroleum Exploration and Petroleum Mining Department(PEPD), Ministry of Finance Planning and Economic Development, National Planning Authority, Wetlands Management Department, the Department of Geological Survey and Mines, the National Forestry Authority (NFA), the Directorate of Environment Affairs of the Ministry of Water and Environment.

Many thanks are extended to the dedicated researchers who sought and pursued the requests for information submitted to the different government agencies and institutions namely Alex Ndyakiira, Sarah Nahurira.

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The project partners are grateful to the financial support that made implementation of the project possible. The grant was received from the International Development Research Council (IDRC) of Canada through the World Resources Institute (WRI) of Washington D.C; the lead project partner.

The research was duly approved by the Uganda National Council for Science and Technology (UNCST), a government agency mandated to facilitate and coordinate the development and implementation of policies and strategies for integrating Science and Technology into the national development process.

Acronyms

ATI	Access To Information.
ATIA	Access To Information Act.
ATIP	Access to information implementation Plan.
ACODE	Advocates Coalition for Development and the Environment
AFIC	Africa Freedom of Information Centre.
AFIEGO	African Institute for Energy Governance.
ACCU	Anti-Corruption Coalition Uganda.
ADC	Association for Civil Rights.
CDD	Centre for Democracy and Development.
CFRs	Central Forest Reserves.
CSCO	Civil Society Coalition on Oil.
CSO's	Civil Society Organizations.
COFI	Coalition on Freedom of Information.
CHRI	Commonwealth Human Rights Initiative
DOI	Direktorate of Information.
EIA	Environment Impact Assessment.
FCO	Foreign and Commonwealth Office
FIELD	Foundation for International Environmental Law and Development
FOI	Freedom Of Information.
FOAI	Freedom of Access to Information.
HURINET	Human Rights Network.
HRNJ	Human Rights Network for Journalists.
IDRC	International Development Research Council.
IIED	International Institute for Environment and Development.
LGO	Local Government Officers.
MFPED	Ministry of Finance, Planning and Economic Development.
NEA	National Environment Act.
NEMA	National Environment Management Authority.
NFA	National Forestry Act.
NUDIPU	National Union of Disabled Persons of Uganda.
NGO	Non Government Organisation.
NRA	National Resistance Army.
ODAC	Open Democracy Advisory Centre.
OSIEA	Open Society Initiative for Eastern Africa.
OSI	Open Society Institute
OAU	Organisation of African Unity.
PEPD	Petroleum Exploration and Production Department.
PPA	Power Purchasing Agreements.
PROFOR	Program on forests.
POAIA	Promotion of Access to Information Act.
PSA	Production Sharing Agreements.
SOER	State Of Environment Report.

TAI	The Access Initiative.
UBC	Uganda Broadcasting Corporation.
UMDF	Uganda Media Development Foundation.
UWS	Uganda Wildlife Society.
UWA	Uganda Wildlife Authority.
UWONET	Uganda Women's Network.
UK	United Kingdom.
UN	United Nations.
USA	United States of America
WRI	World Resources Institute

SECTION 1: INTRODUCTION

The right of access to information is one of the most important fundamental rights and freedoms. As early as 1946, the UN General Assembly proclaimed that; “*Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated.*”¹ This affirmation emphasizes interconnectedness of the right to access information to all other fundamental rights and freedoms. Secondly the right of access to information is key in defence of other rights and freedoms. Access to information also promotes transparency and accountability in government by encouraging public participation. Meaningful participation can only be achieved where the public is knowledgeable and has access to accurate and timely information. Access to environmental information is also vital in natural resource management and sound environmental decisions can only be made where the affected communities are involved in decision making. The Rio Declaration which symbolizes wide international consensus on natural resource management strongly affirms the role of information in sustainable development while protecting the environment.²

Principle 10 of the Declaration emphasizes access to environmental information, public participation in environmental decision making as well judicial proceedings. In its entirety Principle 10 states; ‘Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.’

It is therefore not uncommon to find wide access to information provisions in modern national natural resource legislations and Uganda is a good example of countries whose natural resource laws provide for the right to access environmental information. In the same way mainstream access to information regimes have wide implications for environmental management. Access to environmental information provisions not only complement mainstream access to information laws but also provide a rare opportunity for broadening access to public records generally and experiences generated from the sector can be replicated in other sectors outside natural resources.

It is for this reason that the study considered select natural resource legislation with access to environmental information provisions with a view of identifying key insights that can be extended to other sectors to strengthen the right to information in Uganda. Four natural resource sectors including the environment in general and forests, oil and mining were considered. The study is intended to contribute to and deepen the debate for increased openness in Uganda and beyond.

¹ See GA Res. 59(1), 65th plenary meeting, December 14, 1946

² See The Rio Declaration on Environment and Development, June 1992.

a) Purpose of the research

The ATI in Africa Project is an initiative of the World Resources Institute (WRI) in partnership with Open Democracy Advisory Centre (ODAC) in South Africa, Greenwatch in Uganda and Centre for Democracy and Development (CDD) in Ghana which arose out of the need to close gaps on the shortage of knowledge and literature on access to information in Africa; be it academic, policy and development in regard to transparency issues and the correlation of such with experiences from the rest of the world. Secondly, the initiative arose out of the need for research on transparency models and ATI best practices, on literature on sectoral approaches to creating transparency and accountability, and on the most effective mechanisms to achieving positive outcomes without which, it is difficult to develop measures and strategies as well as design interventions to advance ATI in Africa.

Further, there was a need for greater understanding of approaches to implementing ATI laws and their effects on sectoral approaches in developing countries, to research the constraints and limitations of ATI laws in promoting accountability in different contexts, and in identifying promising solutions.

This research aims at assisting citizen groups, the public, policy makers and private institutions, legal and policy frameworks as well as other institutions and agencies charged with ensuring that ATI is made available, better understand transparency models and ATI best practices in Africa so that decision making processes are accountable and responsive to the public. In this regard, the project identified best practices and other lessons learnt from country experiences in accessing information focusing on sectoral strategies, approaches and achievements. The project also sought to inform policy makers and citizen groups in Africa on transparency models and best practices on ATI. In addition to informing policy makers and citizen groups, the project aimed at ensuring that actors such as legislators responsible for passing laws, government officials charged with implementing ATI laws, rights holders like the citizenry can hold governments accountable as well as development partners and donor groups who provide resources and technical support for implementation and ensuring accountability have a better understanding of best practices and other lessons learnt for effective sectoral ATI strategies and actions

Specifically, the project captured best practices from the environmental field by referring to the regulation and the ease of access of information on various natural resources and ecosystems. In addition, the project explored the limitations and challenges to transparency in order to understand the systems; legislative and civil society oversight capacity; citizen demand for information and its impact on access regimes; and the pathway between the provision of information and the reality of an accountable government (as well as the impact on the public sector and civil society).

b) Justification

There is no doubt that access to information held by public authorities is a fundamental human right³ that is essential for good governance, participatory democracy, sound development and exposing corruption.

³ Toby Mendel, Freedom of Information as an Internationally Protected Human Right. Accessed at <http://www.article19.org/data/files/pdfs/publications/foi-as-an-international-right.pdf>

Democracy is based on the consent of the citizens and the consent turns on government informing the citizens about its activities and recognizing their participation in the same. The collection of information by governments is done on behalf of its citizens, and the public is only truly able to participate in the democratic process when it has information about the activities and policies of the government.⁴

Uganda is among the African states that have been hailed for having a successful freedom of information regime starting with the 1995 Constitution wherein Article 41 the right to information was provided for. In 2005, the Access to Information Act No. 6 of 2005 was enacted to operationalise and give effect to Article 41 of the Constitution. Specifically, the Act was intended to: promote an efficient, effective, transparent and accountable government, give effect to article 41 of the Constitution, promote transparency and accountability in all organs of the state, empower the public to effectively scrutinise and participate in government decisions and to protect persons disclosing evidence of corruption or contravention of the law in public bodies.

Advocates for the development of the ATI law in Uganda argue that the law in its current format is inconsistent with the spirit of the Constitutional provision and instead restricts access to information that was available before it was passed. It has also been suggested that the enabling regulations for the ATI law will restrict further access to information held by government. Yet with the increasing number of corruption cases and scandals related to abuse of office by especially government officers only a regime where structures allow for transparency and availability of key information on government functions and operations can assist in reducing the vice and having the citizenry holding the government accountable using such available information.

The discovery of oil and gas reserves in the Albertine Rift Region in Western Uganda in 2006 and the adoption of legislation to govern the industry presents an opportunity to advocate for transparency and accountability in the management of the sector. However despite the existence of an Oil Policy, government has not presented the oil Bills to Parliament, to deliberate on them. These Bills were only made available to the public for comment after they appeared in the gazette with limited time for consultation and providing effective input. Specifically, the areas of great concern include among others, revenue collection and management, participation by the citizenry in the sector's management, and the environmental, social concerns related to the industry's activities.

The existence of the natural resource sectoral laws has largely facilitated access to various information within the confines of government, particularly the Environment Impact Assessments (EIAs). However these sectoral laws have largely benefited seekers of EIA related information and not other crucial information like contracts, agreements signed between governments and companies, mineral concessions, and permits among others.

c) Structure of the report

This report is divided into five (5) sections. Section one consists of the introduction which outlines the purpose and justification for the research being undertaken at the particular time. Section two outlines the principle research questions and the methods that were utilised in the data collection during the study. Section three of the report highlights the history of the access to information research in Uganda and the

⁴ David Banisar(2001): The right to information and privacy: Balancing rights and managing conflicts, International Bank for Reconstruction and Development/ The World Bank 1818 H Street NW.

events that have steered the ATI campaign as well as the impact of such events. Section four presents the findings of the research. This section is divided into seven sub-sections A to F. Sub-sections A through C comprise of an analysis and review of the laws relating to ATI from framework law to sectoral law.

Sub section D discusses the various types of information that is pro-actively released by government with specific reference to the environment and natural resource sector. It further discusses the, the medium in which it is released, the fees paid, if any, and the language in which the information is released. Subsection E analyses the practice of requesting information by citizens from government agencies using the ATI law and related sectoral laws. This necessitated indicating the gender dimension of the requestor, timeliness with respect to how much time it takes for a response to be received, if at all, the types of information that are not granted and the reasons for refusal. Sub section F particularly depicts opportunities that exist for redress with specific mention of the appeals mechanisms which exist, issues that have been brought before courts, whether the suits were filed under sectoral, constitutional or ATI laws and the impact of court decisions.

Section five presents the conclusions as a result of the findings and analysis. It also proposes key strategies and recommendations for active engagement and taking forward the right to ATI campaign in Uganda. Other data collected that was included in the templates is annexed to the report.

SECTION 2: METHODS

a) Principle research questions/hypotheses

A number of methodologies were applied including, administering questionnaires, interviews, e-mail, use of conference /or skype calls, use of research questions basing on select themes, including transparency models, and sectoral approaches.

This research sought to answer the following principle research questions under the two themes categorized below:

Theme 1: Transparency Models

- *Transparency models:* Which transparency models enable the exercise of the right of access to information in Uganda? *Practice:* Are there alternative routes to promoting transparency in Uganda outside the legal framework? What are the conditions that exist for their success?

Theme 2: Sectoral Approaches

- *Sectoral approaches:* What is the make-up of the transparency infrastructure for natural resources - land, oil, minerals, forests, and water in Uganda?
- *Sectoral contributions:* How have sectoral approaches contributed to or obstructed the development of transparency infrastructure, especially ATI laws in Uganda?

b) Methodology

i. Methods meetings

A methods and research meeting was held to introduce the 3 partner organizations to the proposed project before its inception. WRI and Greenwatch convened a meeting of project principals in Kampala in October 2010 to develop a shared vision for the ATI in Africa project and to initiate the project. Through the Scope of work, each project partner's roles and responsibilities were elaborated, and the activities to be conducted and the products to be delivered established.

Another methods and research meeting was held at the start of the project to train the lead researchers of the 3 project teams on what types of information would be accessed from the various government agencies. At this meeting the principle research questions and specific hypothesis were identified, the specific data to be sourced agreed upon, common approaches and data collection methods as well as data analysis procedures developed and finally generic templates for presenting the sourced data established in addition to establishing quality control procedures. The meetings provided opportunities to discuss work plans and timelines, establish targets as well as assess progress, identify and address challenges, and chart a course forward. Country visits by the project lead partners and team from the WRI to supervise and give peer review advice also enriched the study.

ii. Communication: E-mail, Skype/conference calls

Regular communication was maintained between the project lead team and the other partner organization in Ghana and South Africa during quarterly conference calls of the project principals to discuss project progress, developments and challenges as well as to agree on subsequent steps. Communication also kept flowing through the use of e-mails. The initiative involved making requests in four sub-sectors including forestry, environment, oil and gas and minerals by three categories of requesters including a student, an NGO practitioner and journalist.

iii. Interviews

Interviews were conducted by the researchers with different stakeholders. Stakeholders included government personnel, executive or senior managers from select civil society organisations including among others; Nature Uganda, the Advocates Coalition for Development and Environment(ACODE), the International Union for Conservation(IUCN), Water Governance Institute, Uganda Wildlife Society as well as journalists who had worked on ATI issues.

iv. Templates

Data collection tools were also applied in line with desk research, reviews and analyses for literature. The findings were fed into templates that were populated with the researched information. The following are the templates that were populated.

1) Legal Review- ATI Act and Constitution

Constitutional provisions on access to information embedded in the Constitution, Access to Information Act and the Access to Information Regulations were reviewed and analysed.

2) Legal Review-Other Key legislation

This template was used while examining the 3-5 key legislations which either restrict or promote access to information. These include the Official Secrets Act, the Trade Secrets Act, Parliament (Powers and Privileges) Act cap 258, the Evidence Act Cap 6 and the Press and Journalists Act Cap 105.

3) Legal Review- Natural Resource Acts

An analysis was undertaken on the transparency provisions in the various sectoral laws. These sectors include Environment, Mining, Forestry and Oil. Under each sector, two key laws were reviewed. This include National Environment Act cap 153 , National Environment (Environmental Impact Assessment) Regulations for the Environment sector; National Forest and Tree Planting Act, 2003 and the National Environment (Audit) Regulations, 2006 for the forestry sector; the Mining Act 2003 and the Mining Regulations 2004 for the Mining sector; and the Petroleum (Exploration, Development and Production) Bill 2012, Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Bill 2012 and the Public Finance Bill 2012 for the Oil sector.

4) ATI Request Monitoring.

A template was used to monitor and track several requests made using the ATI Act . It was observed that the requesting process was one of the most captivating and enlightening components of the research. Citizen requests were made under the Access to information Act as well as using the information provisions in the various sectoral laws to a number of government institutions to assess what procedures are in place for accessing public information and whether the government officials were aware of the access to information law and the recently passed regulations made there under. In addition to tracking the requests on the monitoring template, individual experiences of requestors were also documented under the procedure template.

With respect to the citizen requests, written requests seeking access to particular types of information were made to personnel in charge of information keeping in different government institutions. For each of the four sub-sectors, four different types of requests were submitted by 3 different categories of requesters; these were a student, a representative from a Non Government Organisation (NGO) and a journalist. A total of forty eight requests were made for each sub-sector. In the environment sub-sector for instance, three different institutions were visited including NEMA, Wetlands Management Department, Directorate of Environment Affairs in the Ministry of Water and Environment. Under the minerals sub-sector, the Ministry of Energy, Department of Geological Surveys and Mines, and the National Planning Authority were visited. Under oil and natural gas, the researchers visited the PEPD, Ministry of Finance, Planning and Economic Development and UWA. Under forestry, NFA, UWA, as well as the public information centre were visited. A simplified form for recording the process and results was provided to the requestors. In order to generate meaningful comparative data about the functioning of the right to information in different sectors, the requestors were required to follow standard procedures when

submitting requests, when following up on these requests, and when recording the way in which the authorities respond to those requests.

While following the ATI Regulations, information requests were also filled out and submitted in conjunction with the written requests to the designated information officers. From the submitted requests, responses were summarised as those that had been granted, those that had been denied or refused, mute refusal and record not in possession or under the control of the particular government institution or agency.

5) Case Studies

Four case studies were selected for this study. The case studies were chosen from the period before and after the enactment of the ATI Act.

6) Court Case template

Court cases with relevance to ATI were reviewed and analysed and populated into the case template provided. The court cases are descriptive summaries of cases where courts have interpreted or enforced Constitutional law and ATI laws in Uganda.

7) Institutional Assessment.

A modified Golden key methodology (South Africa ODAC) that allows an assessment of the institutional arrangements under the Constitution, ATI law and sectoral laws was used to conduct an institutional assessment. The conduct of an institutional assessment allowed us to collect data on the internal systems that are in place for the public agencies to be able to meet their obligations in terms of the ATI law and any sectoral provisions that provide that the public should have access to environmental information. An assessment was made on how the organisation facilitates persons to make requests under the ATI law and sectoral law, the record management system of the organisation, internal mechanisms such as tracking of requests, training of personnel on the law; assessment of human and financial resources that are utilized for administration of the ATI law and sectoral law and the ability of the organization to address complaints and its responsiveness in general to complaints from the public.

8) Timeline

The timeline is an analysis of historical snapshot of key events, laws, cases and decisions that have set precedent in relation to Access to information and its implementation in Uganda. Most of the events analysed directly impact on Access to Information law. The timeline highlights the impact political action such as regime change, has had on access to information in Uganda as well as precedent setting cases that have been filed by members of the public. The events were populated into a template in the order in which they appear and also posted online using the dipity software. The timeline can be accessed at <http://www.dipity.com/hbibz/Access-to-Information-in-Uganda/>

9) Review of natural resource practices /Pro-active release of Information

An analysis was undertaken to ascertain whether information is released pro-actively by the government and if so, the avenues through which the particular type of information is released. In this regard, the researchers visited government libraries, reviewed institutional reports including annual reports, performance reports among others in search for specific information. The researchers also reviewed

government registers, institutional websites and the national gazette to ascertain whether the specific information is released pro-actively. The findings of this survey were compiled into a template.

10) Annotated Bibliography

The annotated bibliography is a documentation outlining an analysis of key findings of select literature and publications with relevance to ATI in Uganda. Documentation selected included peer reviews, research publications, papers and grey literature, academic research, and studies conducted by organizations and institutions. The analysed data was selected from the health, environment, education sectors, for as long as it correlates and is relevant to transparency.

The bibliography comprises the title and author of a specific publication, the date the publication was made, the summary of the policy recommendation in the publication, its significance, methods used, partners involved as well as the source and link of the information availed. Recently released research publications were also incorporated in the bibliography.

11) ATI and sectoral procedures

The procedures under the ATI law, the natural resource laws as well as any procedures regarding ATI in other laws were documented. This included describing how a citizen should proceed to get information including what forms to fill out, what information to include in the form, accompanying documentation as well as any response that must be taken by the institution to respond.

SECTION 3: BACKGROUND

a) History of ATI research in Uganda.

Several national and international studies have been undertaken on access to information in Uganda and have helped to increase awareness for the need to improve transparency and accountability in various sectors. The available studies have documented cases on how the right to access to information in Uganda has been used by ordinary people to change systems, redress grievances and realize other rights. The literature available places these experiences in the historical context of the evolution of the right to access information from its recognition in the Universal Declaration on Human Rights through the International Covenant on Civil and Political Rights, as a fundamental right for all. It highlights with detailed discussions the essence of the right to information even before the enactment of an Access to information Act in Uganda to the current status of the freedom of information campaign in the country and the bearing the right to information will have on the country as a whole.

Studies have been undertaken to assess the laws and practices related to public access to environmental information in Uganda. Tumushabe et al (2002) analyzed Uganda's implementation of Principle 10 of the Rio Declaration. The assessment was undertaken as part of the Access Initiative (TAI) based on a common set of indicators. It measures national progress in promoting access to public participation, information and justice. Similarly, Petlova et al (2002) conducted a study to address the status of access to information, participation, and justice in nine countries asking the question, What have national governments done—and what do they still need to do—to create effective systems of public participation in their countries? They identified the strengths and weaknesses of specific national systems of public

participation in environmental decision-making. The study combined original data produced at the national level and a specific focus on environmental governance with independent assessment and application to multiple countries including Uganda.

Other studies have specifically focused on the laws that are not consistent with the provisions in the access to information Act in Uganda. Ngabirano (2010) critically analyzed laws inconsistent with the Access to Information Act of Uganda in order to aid strategic impact litigation meant to challenge those provisions that set out to limit the right of access to information. The review was premised on the fact that Uganda's access to information implementation campaign was set in motion with litigation and it appears that actors need to resort to litigation for implementation of the Act to be realized. The report suggests that unless these laws are harmonized with both the Constitution and the Access to Information Act, full access to information will remain a myth. The report subjects the Act to closer scrutiny, pointing out such gaps and challenges. The analysis looks at the laws that contradict with the ATI law, specifically emphasis was put on the Official secrets Act, the Parliamentary (Powers and Privileges) Act, and the Evidence Act. The report goes beyond identification of issues of concern, to providing concrete recommendations that different stakeholders need to closely look at for further advocacy in form of amendment, or repeal of certain laws so as to make the Access to information Act achieve its intended purpose.

Ikoja –Odongo and Kawooya (2006) examined the Access to information Act of Uganda and pointed out a number of critical issues that have been left out of the legislation, and those that are likely to undermine its effective implementation. The paper makes recommendations that would ensure the Act is rendered more workable and effective within the context of existing conditions in the country. A particular recommendation noted is that the laws that are inconsistent with the freedom of access to information and records should be amended or repealed and cross referencing should be done to indicate them as operational. This recommendation was echoed by Ngabirano (2010) who asserts that unless the laws that are inconsistent with freedom of access to information are harmonized with both the Constitution and the Access to Information Act, full access to information will remain a myth. In a response to the study undertaken by Ikoja-Odongo and Kawooya (2006) Kakuru posits that the Access to information Act creates many limitations that are beyond the provisions prescribed under the Constitution of Uganda. Kakuru (2008) concludes that the access to information Act does not provide for the right to access information as stated by Ikoja-Odongo and Kawooya (2006).

In their survey report on the requests for public information, the Human Rights Network Uganda (HURINET) (2010) assessed the public's use of the existing Access to Information Act to request for information in possession of the state and its organs. The survey was undertaken 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 they highlight the need for the regulations. The African Freedom of Information Centre (AFIC) also conducted a study to assess the capacity of Public bodies in Uganda to implement the Access to information Act. The research illustrates that the enactment of the Access to Information Act of 2005 has created opportunities for the public to enjoy the right of access to information but limited progress in implementation of the Act still stands in the way to full enjoyment of this right. This study by AFIC

(2012) employed a similar approach as that used by HURINET in focusing on access to information from a human rights perspective.

More recent studies on access to information have tended to shift towards the nascent oil sector in particular. Kamugisha et al (2008) analyzed the benefits that accrue to a country as a result of applying access rights and presents an analysis of Uganda's legal, policy and institutional framework that can make access rights applicable. Their research sought to contribute to Uganda's efforts to ensure that the recently discovered oil and other extractive resources benefit the entire country, especially the poor and vulnerable communities through participatory natural resources democracy. Their focus also was on a review of Uganda's legal, policy and institutional framework.

Schwarze (2008) focused on the forestry and oil sector in his review of the quality and implementation of the legal framework in Uganda. In his study, he employed a set of indicators developed by the Access Initiative, a particular methodology referred to as the TAI methodology⁵. His study assesses the laws and practices related to public access to environmental information in Uganda and outlines potential areas of activity and makes specific recommendations that could be implemented with limited resources within the existing framework of law, policy and institutions. Muramira and Manyindo (2008) also focused on oil in their research. Their particular take was on the aspect of revenue sharing and the importance of transparency. More and more research has been undertaken on the Production Sharing Agreements covering oil in the Albertine Graben in Uganda. Lay and Pinto (2010) undertook research to provide an in-depth analysis of Uganda's Production Sharing Agreements covering oil development in the Albertine Graben basing on PLATFORM's⁶ investigation of the contract terms relating to economics, sovereignty, human rights and the environment. The contracts were investigated relating to economics, sovereignty, human rights and the environment. Global witness (2010) discusses Uganda's oil sector within the context of the wider governance environment and emphasizes the need for a more pro-active approach from the donor community and calls on it to play a greater role in strengthening governance of the emerging sector at all stages along the value chain of oil production.

Nsita (2010) focused on forestry as an important sector and provides general background information to forestry governance in Uganda. The findings together with the governance indicators were the basis for a meeting of experts on the Uganda forestry scene. The meeting utilized a governance questionnaire to identify governance areas requiring attention. The governance areas helped in the design of a forest governance reform strategy for Uganda.

Comparative analysis of Uganda and South Africa has featured prominently in some of the research. Nicolson and Kawooya (2008) examined the constraints and opportunities for access to public information. In their research on the *impact of copyright on access to Public Information in African countries*, they approach access to information in the narrow lens of access to government information and the impact of copyright in the access process. Drawing from the shared histories of Uganda and South

⁵ The TAI methodology is a framework of research questions, indicators and research (including guidelines on source selection and documentation) used to conduct a TAI national assessment of access to information, participation, justice and capacity building. See www.accessinitiative.org/glossary/7letter#term116.

⁶ Platform is a London-based environment and governance watchdog

Africa as well as other access-related factors, they examine the constraints and opportunities for access to public information and surmise that access to public information in Africa is constrained by a number of other factors which may or may not be shared by both countries. Kwooya et al (2003) used a similar analysis when they focused on the impact of copyright and access to knowledge in Uganda. Their research was premised on a copyright environment that is slightly removed from the realities of the average Ugandan. The study findings point to widespread lack of knowledge of copyright by most Ugandans. Additionally, findings of the study tend to focus on the wider environment than access specifically. The study found that there exists a unique opportunity to engage Ugandan policymakers on how best to reform copyright law to increase access to knowledge. Excell et al (2011) undertook an analysis of the constitutions and FOIAs in Uganda and South Africa and the FOI Bill in Ghana to look at the ways in which the design of FOIAs allows government to exploit power imbalances between it and citizens in order to actively and passively resist openness and transparency. The analysis agreed with the principles that the design of the law allows government to engage in “passive or even active resistance” to change and finds that the way in which FOIAs are written can either help counteract the discrepancy between the power held by government and that enjoyed by individual citizens, or they can work against that balancing act by providing tools for government actors to maintain an inherent advantage.

Ngabirano (2012) reviewed the progress of the freedom of information campaign in Uganda and highlighted the role of civil society in steering the campaign. He discusses the progress of this campaign and underscores the benefits of freedom of information in general. Tracing the evolution of the right to access of information and the status of the freedom of information campaign, he proposes strategies and recommendations based on the experience of South Africa for furtherance of the freedom of information campaign.

The unique nature of the right to information as an empowerment tool that everyday people can use to demand access to the full range of their human rights was the focus of the research undertaken by Daruwala and Nayak (2007). Their research used case studies from various countries including India, Jamaica, United Kingdom and Uganda among others. They point out the essential role information can play in refocusing government priorities toward the needs of the people by enabling them to develop and express informed opinions and play an active role in influencing the policies that affect their lives and examines the ways in which the right to information can be practically implemented at the national level. Gowa (2009) centered on environmental information in her research on access to information. She opines that the availability of consistent, up-to-date and relevant environmental information is a pre-requisite for rational and cost-effective decision making processes. The report provides a snapshot of both the successes achieved and challenges faced in managing environmental data and information in Uganda. It also provides a genesis of environment Information regime in Uganda presenting an overview of the current institutional arrangements and the challenges to the environmental information regime noting the impact the establishment of the National Environment Management Authority (NEMA) has had on the effective management of environmental information.

Access to information has also been viewed as an instrument for empowerment. In a study undertaken by the Association for Civil Rights (ADC) and Article 19 (2007) case studies are used to present concepts about the relationship between access to information and social rights, as well as strategies that can be used to realize social rights through the assertion of the right of access to information. Sendugwa (2012) highlights the role played by civil society in stimulating the demand for information, creating public

awareness about the right of access to information, public education about the law, monitoring government compliance with the law and continued engagement with government which are vital for the successful implementation of ATI laws. Magara (2007) reviewed the state of the audio-visual records/materials in the Directorate of Information (DOI) and UBC to provide a digitisation strategy to enhance effective information dissemination in Uganda. He explored the existing policies and legislations for archiving and dissemination of information in Uganda, so that strategies may be provided for archiving and dissemination of information in the country.

b) The History of ATI in Uganda.

Uganda gained independence from Britain on 9th October 1962. As a British protectorate, the country was governed by rather oppressive and exploitative laws designed by the colonialists for furthering their interests.⁷ As a result, access to information in the hands of the colonial government was limited to only a few collaborators. Unfortunately, the country adopted this very restrictive regime at independence.⁸ The attainment of independence for Uganda provided opportunities for self-determination and revision of colonial laws. The first constitution of Uganda was promulgated in that same year. This Constitution was the first supreme law of the independent state country and provided for the office of a President and of the Prime Minister. The Constitution also provided for the First Parliament of Uganda, the National Assembly was partly elected and partly nominated. The Independence Constitution distributed the legislative powers.

In 1963, the television and Licensing Act was enacted which impacted on media freedom in Uganda. At the time, Uganda Television was the only existing television station in the country and as the national and state owned television station, it continued to exercise monopoly over the airwaves basically making it a propaganda tool for the government. This served to perpetuate state control of freedom of expression and information through television and radio. By December 1964, Uganda had enacted the Official Secrets Act which further served to curtail freedom of information. The Act was used by the government as a mechanism for controlling the sharing of information by the government as it set rules on classification and protection of secret information. This law was used to detain opponents to the government and to silence the opposition⁹.

A new Constitution was enacted on 8th September 1967. This constitution proclaimed Uganda a republic and sanctioned multi party politics. The Constitution further provided for freedom of expression in its Article 17 stating that, “*except with his own consent, no person shall be hindered in the enjoyment of his*

⁷ H.F Morris and James Reed, Uganda: The Development of its Laws and Constitution (1966)

⁸ *Id....*

⁹ Goretti Nassanga. The New Press Bills in Uganda: Implications for National Communication Policy and Press Freedom. Accessed at
<http://archive.lib.msu.edu/DMC/African%20Journals/pdfs/africa%20media%20review/vol11no2/jamr011002006.pdf>

freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence".

This freedom of expression was short-lived and was greatly impacted on by the seizure of power by Idi Amin in January 1971 during a military coup. Amin suspended the Constitution and abolished any political party activity and basically ruled the country by decree. Decrees such as the Newspaper and Publication (Amendment) Decree of 1972 enabled Amin to ban publication of select privately owned newspapers that did not agree with his ideology. By 1978, he had effectively taken over the control of broadcasting in Uganda and utilised Radio Uganda as a government mouth piece. He also vested all parliamentary powers in himself. During his rule from 1971-1979, the Uganda Parliament was in abeyance. Suspension of the constitution and vesting Parliamentary powers in himself meant that freedom and access to information was severely curtailed. On 11th April 1979, Amin was ousted by a joint force of Tanzania Peoples Defence Forces and forces of the Uganda National Liberation Front. Following the overthrow of Amin's military regime, an interim Parliament was put in place. The interim Parliament or National Consultative Council governed the country until elections were held in 1980.

This respite was also transitory. On 27th July 1985, the then President Dr. Milton Obote was deposed in a military coup led by the commander of the Army's northern region, Brig. Gen Tito Okello. His rule, though short lived, was marked by government monopolization of ownership of the broadcast media- Radio Uganda and all local broadcast journalists were government servants. The resultant culture of silence that engulfed them was reinforced by the fact that opposition political party activity had effectively been banned since the mid-1960s, and by the existence of the Official Secrets Act of 1964 which compelled government servants to vow to protect all information that came to them in the course of duty, or face up to 14 years in jail. This and the absence of any access to information laws had made it extremely difficult for the one existing radio outlet to serve as a forum for the expression of divergent political views.

The capture of power by Yoweri Museveni and the National Resistance Army on 25th January 1986 ushered in a new era in Uganda. It marked the end of Tito Okello's regime and a promise of restoration of democracy in Uganda as indicated in the NRA's ten point program at the time. In May 1986, Uganda ratified the African Charter on Human and Peoples Rights. This Charter, which was adopted on 27th June 1982 entered into force on October 21st 1986 under the support of the Organization of African Unity (OAU) and set out freedom of information as part of the fundamental right to freedom of expression. By November 1988, the Constitutional Commission Act had been passed in Uganda. This Act was essential in establishing a body- the Constitutional Review Commission in December 1988 to hear public testimony and draft a new constitution for Uganda. The Constitutional Commission's roles among others were to study and review the Constitution with a view to making proposals for the enactment of a national Constitution; formulate and structure a draft Constitution that would form the basis for the country's new national Constitution. The genesis of Article 41 of the Constitution of Uganda can be traced to the recommendations of the Uganda Constitutional Commission. Reflecting on a constitutional history that entailed the non-respect for human rights and the absence of democratic values, the Odoki Commission pointed out that "*the fundamental freedom of expression and the right of every person to information are vitally important rights, at the centre of the struggle for the defence of human rights and democracy*".

The period from 1993 onwards was marked by the emergence of privately owned media in Uganda. On 18th December, Radio Sanyu was licensed as the first privately owned radio station in Uganda thus pioneering the emergence of private broadcasting and ending the monopoly then enjoyed by the state owned Radio Uganda. In 1994, Capital Radio was licensed. These private radio stations introduced participatory political talk shows in Uganda.

In 1995, shortly before the passing of the Constitution, the Constitutional Assembly had passed the Press and Journalists Statute (1995). The Act establishes the Media Council as the custodian of professional standards in the media. It guarantees the right of access to information, subject to other provisions relating to “*national security, secrecy or confidentiality of information.*” The Press and Journalist Statute was enacted with the purpose of ensuring that freedom of the press to provide for a council responsible for the regulation of mass media, to establish an institute of journalists of Uganda and to repeal News Paper and Publications Act 1964 and the press censorship and Correction Act. The Press and Journalists Act extends Article 29 of the Constitution on Freedom of Expression, regulates eligibility for media ownership and requires journalists to register with the National Institute of Journalists of Uganda

In May 1995, the National Environment Act was enacted and put in place the institutional framework that established the National Environment Management Authority (NEMA), the principal agency responsible for the management of the environment in Uganda. The National Environment Act of 1995 sets out enforcement by individuals of the right of access to information has largely been undertaken through filing of Constitutional petitions; the fact that the courts were steadfast in enforcing the right of access to information under the constitutional guarantees in spite of absence of (and a failure to enact) a specific access to information legislation during the ten or so years. To that end, certain elemental aspects of the right are discernable from the jurisprudence of the courts. In 1997, in the case of *Major General David Tinyefuza vs. Attorney General*, the then Chief Justice Wako Wambuzi while rejecting the claim of exemption by the Attorney General on the grounds of State security noted that; “...the Constitution has determined that a citizen shall have a right of access to information in state hands...it is no longer for the Head of Department to decide as he thinks fit. That unfettered discretion has been overturned by Article 41 of the Constitution”.

The efforts and approaches taken by Ugandans to access information mainly through the courts was evidence that without a specific access to information legislation, the general public would continue to face significant bottlenecks in accessing information. In the case of *Paul K. Semwogerere and Zachary Olum vs Attorney General, (Constitutional Appeal No. 1 of 2000)* resulting from an appeal from a ruling of the Constitutional Court of Uganda in Constitutional Petition No. 3 of 1999, an appeal was made against a ruling of the Constitutional Court. Honourable Justice G.W Kanyeihamba held that while it is still a practical necessity for a litigant or a petitioner to write to the State, or organ or its agency in possession of information, once that information is obtained, with or without the cooperation of the State, or organ or agency concerned, the information is freely usable and admissible in courts of law unless it falls within the exceptions under Article 41 (1). Moreover where the State refuses to release such information, the citizen entitled to receive it may take the necessary legal steps to compel its release. In 2001 Greenwatch challenged the government on the refusal to make public the Power Purchase Agreement that was signed between government and AES Nile Power Ltd. in respect of the Bujagali Hydro power project (*Greenwatch (U) Ltd v. Attorney General of Uganda and Uganda Electricity*

Transmission Co. Ltd), the Court therefore ruled that the Power Purchase Agreement was a public document.

In the wake of the September 11 attack on the USA, the Parliament of Uganda enacted the Anti-Terrorism Act, No 14/2002 which came into force on 7th June 2002. This Act outlaws the disclosure of information that may prejudice an investigation concerning terrorism. The Anti-Terrorism Act presents challenges to the way journalists and media houses report on state institutions.

From 2003, civil society organisations began advocating for an access to information legislation. The Anti-Corruption Coalition Uganda (ACCU) called for an urgent law to allow the public access information as one way to stop corruption. This was after a survey carried out showed that corruption was at an increase and there were a lot of inefficient and poor service delivery due to the fact that people lacked information and could not hold their leaders accountable. Civil society further formed themselves into a Coalition on Freedom of Information (COFI) that continued to demand for the enactment of a legislation that would help in assisting the public to demand for the information and also fight corruption in all spheres. Civil Society Organizations under The Access Initiative, in collaboration with progressive members of Parliament, individual journalists and public spirited individuals drafted a private members bill. The Attorney General drafted its own bill in response to work carried out by civil society , which was eventually passed and assented to on the 7th day of July 2005 as the Access to Information Act, Act No. 6 of 2005. In 2008, a task force was set up by the Ministry of Information comprising the different ministries as well as 2 civil society organizations which included HURINET-U started a process of developing a 5 year plan called Access to information implementation plan (ATIP) to design strategies of ensuring the law is implemented.

In November 2009, a case was brought before the Chief Magistrates Court in Nakawa to access information held in the hands of the state. In this case, *Charles Mwanguhya Mpagi and Izama Angelo v. Attorney General No. 751 of 2009*, the applicants applied to the Chief Magistrate's Court in Nakawa for an order to force the government to disclose the oil Production Sharing Agreements signed between the government and the oil companies in Uganda. This was the first case brought under the Access to Information Act. However, the request was refused on the grounds that a clause in the PSAs provided for confidentiality about the agreements and resulting information, and mandated the consent of the multinational companies for disclosure. In the same year, Greenwatch, an advocacy NGO petitioned the High Court of Uganda in a bid to compel the Government to release the Production Sharing Agreements. This case *Greenwatch vs. Attorney General (Misc cause No. 232 of 2009)* was filed under the Constitution of Uganda. The suit is still pending at the High Court in Kampala.

The Access to information regulations were passed to effect the operationalisation and the implementation of the Access to Information Act on 21st April 2011.

SECTION 4. FINDINGS AND ANALYSIS

A: ENABLING ENVIRONMENT FOR TRANSPARENCY

I. Review of the Constitution, ATI Law & Regulations

i) Constitution of Uganda, 1995

Uganda is one of the twelve African countries with an express right to information provision in the country's Constitution.¹⁰ As early as 1993, the Odoki Commission which was charged with the mandate of gathering the views of all Ugandans on the proposed new Constitution highly recommended that the constitution provides for a right to information. In its words, the Commission observed that;

'[t]he fundamental freedom of expression and the *right of every person to information* are vitally important rights, at the centre of the struggle for the defence of human rights and democracy.'¹¹ Ultimately the Commission recommended thus; '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 media¹²; and that 'Public officials should be free to disclose *information* they come across in the course of their duties, provided it is not classified.'

Article 41 of the Constitution of the Republic of Uganda translated this recommendation in the following terms;

Article 41, Constitution of Uganda, 1995

- (1) Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.
- (2) Parliament shall make laws prescribing the classes of information referred to in clause (1) of this article and the procedure for obtaining access to that information.

¹⁰ The Other countries include; the Democratic Republic of Congo, Madagascar, Malawi, Mozambique, South Africa, Tanzania, Kenya, Cameroon, Ghana, Senegal and Morocco. See <http://right2info.org/constitutional-protections-of-the-right-to>

¹¹ *Report of the Uganda Constitutional Commission: Analysis and Recommendations*, UPPC, Entebbe, 1993, p. 169, para. 7.130 (hereinafter the *Odoki Commission Report*).

¹² *ibid.*, para. 7.131(a). The recommendation is a rephrasing of article 9 of the ICCPR.

¹³ *ibid.*, para. 7.131(j)

Case study: Access to Information in possession of the State or any other organ or agency of the State

Paul Ssemogerere and Zachary Olum Versus The Attorney General an appeal to the Supreme Court of Uganda from the ruling of the Constitutional Court.

Background

The Referendum and Other Provisions Bill was tabled before parliament and passed into law on 1st July, 1999. The purpose of the laws was to provide for a referendum to decide on the political system the country would adopt and determine the future of political parties in Uganda in accordance with Article 271 of the Constitution.

The Appellants, Paul Ssemogerere and Zachary Olum were senior politicians who sought to challenge the validity of the Referendum and Other Provisions Act in the Constitutional Court by way of petition. The petitioners claimed that at the time parliament passed the Referendum and Other Provisions Act there was no quorum in parliament as required by Article 88 of the Constitution because the Speaker of Parliament in ascertaining the quorum adopted the Hansard procedure instead of using the registers to ascertain the quorum.

The grounds of the petition included inter alia:-

That the Referendum and Other Provisions Act was passed at a time when parliament did not command quorum in accordance with the provisions of the Constitution and that the ascertainment of that quorum by the Speaker of parliament was not done in accordance with the provisions of the Constitution.

The Constitutional Court held that:-

- The petition was not supported by admissible affidavit evidence.
- The Constitutional Court was not vested with jurisdiction to hear the petition because the petition did not call for interpretation of the Constitution.
- That the petition seeks judicial inquiry into internal proceedings of Parliament, which the Courts have no jurisdiction to carry out; and
- The petition does not name either Speaker of Parliament or the Attorney General as the respondent

The petitioners were dissatisfied with the judgement so, they appealed to the Supreme Court. The appeal were inter alia

- That the learned Justices of the Constitutional Court erred in law and fact when they rejected the affidavit of the petitioners (now the appellants) that the deponents had not obtained the permission of the parliament and
- The constitutional court erred when it held that a copy of the Hansard was not admissible in evidence without the express authority of the speaker.

The major outcome of the case

Supreme Court held Per G.W. Kanyeihamba (Judge Supreme Court as he then was) that since under article 41 of the constitution of Uganda, information in possession of the state is freely available to a citizen except where its release would be prejudicial to the security or sovereignty of the country or interfere with the right to privacy of any other person. He further stated that he finds no constitutional or legal ground to prevent the use of Hansard to stop members of parliament from giving evidence in Courts of Law. In his view, Article 41 of the Constitution gives every citizen access to information in possession of the state, state organs and their agencies these include parliament, the executive, judiciary and any of their agencies in diverse manifestations.

Also, he stated that, "if parliament is to claim and protect its powers and internal procedures, it must act in accordance with Constitutional provisions which determine its composition, and the manner in which it must perform its functions. If it does not do so, then, any purported decision made outside those Constitutional provisions is null and void and may not be claimed to be an Act of parliament."

The other Supreme Court judges made their own judgments and concurred with Kanyeihamba's position above but had some comments to make for emphasis. Justice Leticia Mukasa- Kikonyogo (Deputy Chief Justice as she then was) stated that, the provisions of other laws cannot oust the provisions of the Constitution. Justice Tsekooko stated that Article 273 of the Constitution empowers organs of the State of Uganda to ensure that laws whose effect in application might negate the spirit of the 1995 Constitution are made to conform with the latter and spirit of the new Constitution because "the rights and freedoms of the individual and groups enshrined in Chapter 4 of the Constitution shall be respected, upheld and promoted by all organs and agencies of Government and by all persons as set by Article 20(2) of the Constitution" He noted that in another case **Attorney General v Major General David Tinyefuza** the Supreme Court considered the effect of the provisions of Article 41 of the Constitution and held in effect that a citizen cannot be denied access to information by State or its organs unless the States shows that such information fell within the exceptions set out by Article 41(1).

Justice J. Mulenga (Justice Supreme Court as he then was) in his judgment agreed with G.W. Kanyeihamba (Judge Supreme Court as he then was) and emphasized that other Laws must be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution. He stated that special leave from Parliament is limited to the circumstances excepted under Article 41 of the Constitution. He held therefore that absence of leave of Parliament does not render the affidavits of the petitioners inadmissible in Court. "The only thing that would have rendered the affidavits inadmissible is if it had been contained that the information was likely to prejudice the security or sovereignty of the State or interfere with the right to privacy of any other person."

Justice S.W.W Wambuzi (Chief Justice Supreme Court, as he then was) stated that the Constitution had determined that a citizen shall have a right to access to information in State hands. It determined the exceptions in a manner that is inconsistent with the application of section 121 of the Evidence Act. "It is no longer the Head of Department to decide, as he thinks fit. That unfettered discretion has been overturned by Article 41 of the Constitution and now, it is for the court to determine whether a matter falls in the exception in Article 41 or not."

Justice Arthur Oder (Supreme Court, as he then was) stated that Section 121 of the Evidence Act was not consistent with Article 41, and that for the exception in Article 41 to be invoked, not enough to raise state security without more, but the State had to show how release of information to a citizen would prejudice the security of the State.

Conclusion

The impact of this case study is that the Court recognized that Article 41 of the Constitution which provides every citizen with the right to access information that is held by the state and its organs and agencies supersedes all other Laws to the contrary. Those records held by parliament and other state organs should be accessed by citizens. The exceptions for withholding such information are clearly stated within the Article and should not be deviated from. Also, all those Laws inconsistent with Article 41 of the Constitution are null and void.

Article 41 of the Constitution therefore forms the basis of the right to information in Uganda. It spells out the kind of information the public may access and that which may be denied. Further, Article 41 (2) enjoins Parliament to make a law prescribing the information referred to in subsection 1 and the procedure for accessing that information. It took Parliament close to ten years to fulfil this mandate and

for a long time Article 41 continued to form the sole basis for the right to information in absence of a specific law on the right to information. Most court cases on the right of access to information were brought and decided largely on the basis of Article 41.¹⁴ The major limitation with Article 41 however remains the fact that it restricts enjoyment of the right to Ugandan citizens. This has proved limitative especially when faced with corporations and/or non- profits seeking information. As will be seen in greater detail later, Greenwatch a body corporate registered in Uganda was denied access to details of a Power Purchase Agreement between the government of Uganda and AES power for failure to prove that it was a corporate citizen.¹⁵ It is surprising that the right of access to information is limited to citizens, yet under Article 50 of the same Constitution any person may petition for enforcement of a right that has been infringed or threatened irrespective of the fact that the person is personally aggrieved.¹⁶ It is clear that under Article 50 one need not to be a citizen to enforce a constitutional right hence there is no justification for limiting enjoyment of the right to information to citizens under Article 41.

Case study: The case of Bujagali Power Purchase Agreement

The Government of Uganda sometime in 1997 approved a project to construct a 250 mega watt hydro electric dam at Bujagali on the head waters of the River Nile. It was “construct and operate” project. AES Nile power LTD a project company set up by the new defunct AES Corporation of United States subsequently signed a power purchase agreement with the Government of Uganda. The agreement was kept secret and confidential and was not available even to some Government departments such as The Attorney General’s office. The agreement was also not available to the Parliament.

The existence of the agreement become public knowledge when the project developer sought to obtain funding from international finance and banking institutions up to US\$ 500,000,000 (five hundred million). One of the conditions of the loan grant was that the project developer must provide a government guarantee for the loans.

It is at this point that the government sought the advice of the Attorney General, who come to know about the agreement at the point for the first time. The Attorney General then advised Government that the constitution required that same loan guarantee be approved first by Parliament.

When the matter come to parliament, it demanded that the power purchase agreement be tabled. Government rejected this claiming that this was a confidential document that contained secrecy clauses and therefore would be not available to the parliament. Eventually parliament did get restricted access to the agreement but the public did not.

Greenwatch Uganda, an environmental advocacy NGO together with other civic society organisations decided to take the matter to the court to get access to the agreement

¹⁴ Some of these cases touching on natural resources and the environment will be reviewed in the later part of this analysis.

¹⁵ HCCS 139 of 2001, High Court of Uganda.

¹⁶ See Article 50, Constitution of the Republic of Uganda. Article 50 has relaxed the rule of standing that any person may petition under the provision where his/her rights have been threatened or even where another person’s rights have been threatened. See also Phillip Karugaba, ‘Public Interest Litigation in Uganda, Practice and Procedure: Shipwrecks and Seamarks,’ A paper Presented at the Judicial Symposium on Environmental Law for Judges of the Supreme Court and Court of Appeal, 11th – 13th September, Imperial Botanical Beach Hotel. Also available on http://greenwatch.or.ug/pdf/news/SHIPWRECKS_AND_SEAMARKS.pdf.

The agreement they urged would reveal to the public the sustainability of the project, the cost the public would have to pay over time, the impact and cost of power of the environment especially in relation to wood, fuel and charcoal.

It would also enable the public to effectively evaluate and monitor the E.I.A provision and mitigation measures/ among others.

Greenwatch also sought to use this opportunity to test the Access to information provisions in the institution. At this time in the year 2001, Uganda had not enacted an access to information law.

STRATEGIC LITIGATION

The method preferred by Greenwatch was to obtain access to the Power Purchase Agreement through courts of law by invoking the provision of the constitution. The legal action was to institute a suit by way of strategic litigation in this regard.

On preparation for the suit Greenwatch just wrote a letter to National Environment Management Authority (NEMA) requesting for a copy of the agreement on the 17th Sept 2001. The Executive Director did reply on 29th Oct 2001 advising Greenwatch to contact the Ministry of Energy for the information on 1st Nov. 2001, Greenwatch wrote to the Commissioner, Energy department, Ministry of Energy and Mineral Development requesting for a copy of the Power Purchase Agreement.

The Permanent Secretary, Ministry of Energy did reply on 23rd Nov. 2001 indicating that the power purchase agreement is a comprehensive document with lots of information including sponsors technical and commercial secrets. And went on to explain further that it contains confidentiality clauses for protection of intellectual prosperity and as such it would not avail to Greenwatch or the public.

In response, Greenwatch did again write to the Permanent Secretary requesting him to block out confidentiality clauses that relate to the technical and commercial secrets and avail the agreement with the remaining clauses on the 28th November 2001.

Several efforts were made to access the Power Purchase Agreement without success. On July 2002, Greenwatch filed a suit by Notice of motion, Article 50 of the lost fundamental rights and freedom enforcement procedure, 19th Dec 2001. The motion was not endorsed and sealed by law till the 1st July 2002.

The matter come for hearing on 10th July 2002, and the trial judge asked Counsel for the respondent to supply a copy of the Power Purchase Agreement signed between the Government and M/s. AES Nile Independent Power. The suit was initially against the Attorney General only when the matter come up for hearing before, High Court Judge Egonda Ntende (Now chief justice of the Republic of Seychelles). The Attorney General applied for adjourn to file a defence, in this case an affidavit in reply on 11th July 2002.

Sarah Naigaga C/o Greenwatch Ltd swore an affidavit in rejoinder regarding the affidavit of Mr. Kabagambe Kalisa in reply to the Notice of Motion.

Because the Power Purchase Agreement was not available, Greenwatch Limited could not ascertain who the exact parties to the suit were. The case was first brought to the Attorney General as a statutory defendant and jointly with the Uganda Electricity Generation Company Ltd.

At the first hearing, an objection was raised to the effect that Greenwatch Limited had sued a wrong party, and the application was dismissed against the distribution Company, Court ordered Greenwatch to substitute the party with the Distribution Company and this was done.

When the matter come again for hearing, the Attorney General claimed that the Power Purchase Agreement requested for, did not exist.

1st, the Attorney General said the Power Purchase Agreement was confidential and could not be released then court asked questioned how it could determine that the agreement was confidential without looking at it, the court then asked the Attorney General to produce the agreement/ document in court so that court could determine that the document was confidential or not. The Attorney General complied so Greenwatch lawyers asked that the document be provided to them and another copy to court, court then made an order directing the Attorney General to give a copy to court and another to the plaintiff – Greenwatch Limited, the matter was adjourned.

During the adjournment, the attorney General filed another affidavit, this time claiming that no such an agreement existed and court still demanded that the agreement be produced. Before the date on which the matter had been adjourned, an unknown person delivered a copy of the said Power Purchase Agreement to the office of Greenwatch, apparently he was a member of parliament who had accessed a copy and was following the case through the press.

Whereupon Greenwatch Limited's lawyers filed another affidavit attaching the Agreement filed it in court and modified its application from being a production of the Power Purchase Agreement to a declaration by Court that the agreement delivered in court by Greenwatch was a public document.

Apparently, the agreement had been signed between Uganda Electricity Board and AES Nile Power Ltd explaining the attempt by the Attorney General that there was no agreement between the Government of Uganda and AES.

The issues for determination by court were as follows:

1. Whether the public was entitled to information containing the Power Purchase Agreement.
2. Whether such information was restricted under Article 14 of the constitution.

In determining issues, court also determined other issues which had not been argued.

1. Whether Uganda Electricity Board or its successors were public bodies or agencies of Government within the meaning of Article 41 of the constitution.
2. Whether Greenwatch Limited was a citizen of Uganda capable of enforcing the right to Access to Information under Article 41 of the constitution.

In his judgment, Engonda Ntende. J. (as he was then) held as follows:-

1. That Uganda Electricity Board and its successors were government agencies within the Article 14 of the constitution.
2. Greenwatch Limited had not proved to court that it was a citizen but an NGO or registered Company qualifies to be a citizen under Article 41 of the Constitution if 51% of its shares or members are Ugandan citizens.

However, this was a question of evidence, court held that the agreement produced in court was a public document and did not fall under the exceptions set out in Article 14 of the Constitution of Uganda

ii) Access to Information Act, 2005

It took Parliament ten years to enact the Access to Information Act 2005. It is not clear why it took this long as curiously the same Parliament passed several other laws such as the Referendum Act in record time. It took a spirited civil society campaign to finally have the Act passed. Initially the Bill entitled 'The Access to Information Bill, No. 7 of 2004' was presented as a members Bill before it was hijacked

by government and subsequently presented by the Minister of Information with a few modifications.¹⁷ This part presents a careful analysis of the Act as eventually passed with more emphasis on the purpose and scope of the Act, exemption regime, bodies to which the Act applies while employing the test of international standards and comparative experiences from countries with an Access to Information Regime.

a) Purpose of the Act

The purpose of the Act is set out in Section 3 to include; *promotion of an efficient, effective, transparent and accountable government; giving effect to Article 41 of the Constitution; protection of whistleblowers; promotion of transparency and accountability in government by providing the public with timely, accessible and accurate information; and empowerment of the public to effectively scrutinize and participate in government decisions that affect them.*

The stated purpose is fundamental to democratic governance and accountability. Governments are expected to exercise their powers in accordance with the will of citizens and this can only be realized where citizens are able to scrutinize each and every action of government. Access to timely and accurate information constitutes one major mechanism of empowering citizens to hold governments accountable and is also crucial in informing citizen's decisions in electoral processes. At the same time, sound environmental management can only be achieved where citizens not only have access to accurate information but also where they are able to participate in decisions that affect them. The stated purpose is therefore laudable in as far as it promotes an efficient, effective and transparent government through encouraging citizen participation.

b) Right of Access/ Duty to Provide Information

Section 5 of the Act restates the right of access to information in almost similar terms as Article 41 of the Constitution. The section is however deeper than the Constitution in as far as it obligates information officers to supply only *accurate and up to date* information. This is extremely important in the protection of rights and freedoms on one hand and in the natural resources arena on the other hand, where often timely access to accurate information is necessary to protect the environment from irreversible damage.

Further, the Act contains a number of provisions that encourage proactive disclosure of information on the part of duty holders. One of such provisions is Section 8 which enjoins officers to publish a description of records automatically available to the public. Section 7 also has a few provisions for proactive disclosure in as far as it encourages publication of manuals of functions and index of records of public bodies. Some of the anticipated records under this provision include those relating to procedures for access to information in possession of those bodies and subject of records that those bodies hold. This is a right step which is yet to translate into reality in practice. Most public bodies are far from complying with these provisions to provide for proactive information. Also it is highly recommended that the scope of these provisions be broadened to cover a broad range of issues presently not covered as is the case with

¹⁷ Interview with Patrick Tumwine, Advocacy, Research and Information Officer, Human Rights Network- Uganda, 20th November 2011.

Article 7 of the Mexican Federal Transparency and Access to Public Government Information law 2002. These could include, the constitutional structure of the agency, monthly remuneration of each position, budget information of each agency, audit results, concessions and permits granted, names of contractors among others.

Beyond a duty to disclose and proactive disclosure, Section 22 of the Act provides for record keeping. Information officers are required to preserve records sought to be accessed under the Act until the request is met or where an appeal is sought until all appeal procedures have been exhausted. Generally the Act falls short of establishing a comprehensive records keeping and management system. Government bodies possess a wide array of information which should be managed in the most efficient way. In the UK for example, the Lord Chancellor is mandated to develop a Code of practice that provides guidance to bodies covered by the Act on custody, management and disposal of information.¹⁸ The provisions of the Uganda Act should be revisited to provide for a strong record keeping and management system.

c) Scope of Access

Cabinet records and those of its committees are expressly excluded from the scope of information that can be accessed under Section 2 (2) (a) of the Act. In effect the Section closes off the executive arm of government to which cabinet belongs from public scrutiny. There is no reason why such records should be excluded unless they fit within the two exceptions under Article 41 of the Constitution (state security or sovereignty and where disclosure would amount to an infringement of the right to privacy of another). Indeed, the enactors of the Act realizing this unnecessary limitation recommended that the Regulations made under the Act prescribe the category of cabinet records that cannot be accessed.¹⁹

The section is therefore unjustifiably limitative by imposing a blanket exclusion of cabinet records from scrutiny. It is submitted here that only that cabinet information that relates to state security or sovereignty and privacy of another should be excluded from access rather than the current regime that imposes a blanket exclusion of all cabinet records.

d) Bodies to which the Act Applies

The Act applies strictly to information in possession of the state or public body within the meaning of Section 5. A public body is defined to include “a government, ministry, department, statutory, authority or commission.” Section 2 (1) of the Act provides a broader list of bodies to which the Act applies. These include; “government ministries, departments, local governments, statutory corporations and bodies, commissions and other Government organs and agencies.” In terms of bodies to which the Act applies, it is acknowledged that they fall within the provisions of the Constitution in Article 41 (1).

This notwithstanding there is emerging practice to extend the right to non-public bodies under certain circumstances. The South African *Promotion of Access to Information Act, 2000* (POAIA) is illustrative in this respect. Part 3 of the Act, compels private bodies to provide information if it is required for

¹⁸ See Section 46, United Kingdom Freedom of Information Act 2000.

¹⁹ See Section 25, Access to Information Act.

protection of the rights and freedoms of an individual.²⁰ The right of access should apply to private bodies with equal force where the protection of individual rights and freedoms is concerned and where such bodies exercise public functions.

e) Exemptions to Access

The Act contains various exemptions to the right to information under Part III. Cabinet records and those of its committees as well as information relating to privacy of another person are expressly excluded from access in this respect.²¹ The Act also excludes access to; commercial information of a third party²², confidential information²³ and information prejudicial to safety of persons and property.²⁴ The other exemptions under this part include records privileged from production in legal proceedings²⁵, records pertaining to operation of public bodies²⁶ and security sensitive information.²⁷ The exemptions regime is much broad than envisaged under Article 41 of the Constitution. Under the Constitutions there are only two exceptions to the right of access to information in possession of the State. These include; information prejudicial to state security or sovereignty or that which interferes with the privacy of another person. Further under the Article 43 (2) (c) of the Constitution, any limitation on rights and freedoms enunciated under the constitution must be demonstrably justifiable in a free and democratic society.

A critical look at the exemptions under the Act reveals three main concerns. Firstly the breadth and depth of the stated exemptions goes beyond that set out under Article 41 of the Constitution which forms the basis of the right. Secondly the exemptions regime does not pass Constitutional muster in light of the provisions of Article 43 (2) (c) above as they are not justifiable in a free and democratic society. A free and democratic society is one that '*clearly presupposes the existence of universal democratic values and principles, to which every democratic society adheres.*'²⁸

Thirdly, the Act does not provide sufficient harm tests under the exemptions regime.²⁹ The total effect of these exemptions is a completely watered down regime that is rather ineffective. Under the present exemption regime any sort of information may qualify to be exempted from access by citizens. It is even

²⁰ See Part 3, Promotion of Access to Information Act, 2000.

²¹ Access to Information Act, Section 25 (1) and 26 (1) respectively.

²² Section 27, Access to Information Act

²³ Section 28, Access to Information Act

²⁴ Section 29, Access to Information Act

²⁵ Section 30, Access to Information Act

²⁶ Section 33, Access to Information Act

²⁷ Section 32, Access to Information Act

²⁸ Judgment of Mulenga JSC, Charles Onyango Obbo & Anor v. AG, Constitutional Appeal No. 2 of 2002.

²⁹ A progressive law should require that serious or substantial harm or likelihood of such substantial or serious harm be proved before the exemptions come into play.

more troubling that the exemptions widely limit the powers of courts to access certain information in determining appeals against information denials. The courts may also be denied access to exempted information notwithstanding that such information is vital in determining the violation.³⁰ The exemptions in the Act are thus rather too broad and ambiguous that they vest so much discretion in the officer in deciding whether to grant the sought information or not. In the event of denial, the court in certain instances cannot question the denial simply because the officer acted within the provisions of the Act. This goes beyond the principle of separation of powers well situated in the 1995 Constitution and greatly undermines the role of courts as final arbiters.

Section 34 attempts to undo the harm occasioned by the exemptions under the Act in as far as it provides for mandatory disclosure of information that would ordinarily have been denied. Under this provision, Information relating to evidence of commission or attempted commission of a crime and that revealing an imminent danger to public safety may be disclosed mandatorily.

Finally disclosure is mandatory where the public interest in disclosure is greater than the harm contemplated. The Act does not describe public interest but instead imposes a huge burden on information seekers to prove that the sought information is in the public interest. In a recent court case involving two Ugandan journalists seeking to access details of the Production Sharing Agreements (PSA) the court denied a request for information on grounds that the petitioners did not prove sufficiently that there was a public interest in disclosing details of the PSA.³¹ (This case is discussed in more detail below). Part III of the Act on exemptions therefore constitutes numerous clauses that limit the right of access further than the stipulated limitations under the Constitution.

f) Complaints and Appeals

Part V of the Act puts in place a complaint and appeals system. This is in addition to the internal appeal mechanism established under Section 16 (3) (c). Any person aggrieved by the decision of an information officer may pursuant to Section 37, lodge a complaint with the Chief Magistrate. Such a complaint may be made in respect to information denial or against the form in which the sought record is granted. While this is laudable in as far as it provides for recourse in the event of information denial, it is not clear which of the appeals takes precedence. (Internal appeal and appeal to Chief Magistrate).

Secondly, the internal appeal mechanism is not fully developed under the Act. It was expected that the procedures for internal appeals would be set out in the regulations but the recently passed Regulations do not provide any guidance in this respect.³² In effect, aggrieved information seekers are left confused on the most appropriate recourse. It is strongly recommended that a comprehensive internal appeal mechanism be developed given the protracted and costly nature of court proceedings in Uganda. Presently, courts are experiencing a huge case backlog and litigation is unduly prolonged while an internal mechanism would be cheaper and faster.

³⁰ Article 40 (1), Access to Information Act, 2005.

³¹ *Charles Mwanguhya Mpagi & Izama Angelo vs. Attorney General (Misc Cause No.751 of 2009)*

³² See the Access to Information Regulations, 2011.

g) Miscellaneous

One of the most laudable practices put in place by the Act is the requirement of every Minister to submit an annual report to Parliament indicating the number of requests made to public bodies under his/her Ministry.³³ This provides some form of accountability and would be a good measure of commitment and response of public bodies to citizen's requests. Unfortunately, to date no Minister has presented an annual report as required by the law.

The other equally important provisions are those geared at enforcement of the Act. Sections 44 and 45 for example protect persons and public officers releasing information from prosecution. Also it is an offence under the Act for any person to destroy, conceal or falsify a sought record with intent to deny a right of access under the Act.³⁴ These provisions collectively encourage access to public records by among others reassuring officers of immunity for honest acts and providing an enforcement tool for provisions under the Act in the form of criminal sanctions.

Case Study: Charles Mwanguhya Mpagi, Angelo Izama vs. Attorney General.

In 2009, Two practicing journalists, Charles Mwanguhya Mpagi and Angelo Izama sought to have oil production sharing agreements signed between the Government of Uganda and companies prospecting and exploring oil in the Albertine region of Uganda made public. It seems the reason for the requests was not only to have the agreements disclosed but also to test the access to information legislation in Uganda.

The legislation had been passed in 2005. Although Regulations operationalising it had not been passed, nonetheless the two journalists proceeding under the Act filed a suit in the Magistrates Court in Kampala specifically under the Act and specifically seeking for Access to information in respect to the Production Sharing Agreements.

The respondent in this matter was the Attorney General. Before the case was filed in court the applicants had through their lawyers written letters to the Attorney General and to the Permanent Secretary, Ministry of Energy and Mineral Resources seeking certified copies of these agreements. Both requests were denied, the denial was based on two grounds

1. That there were confidentiality clause between the Government and oil companies that would not allow disclosure without the consent of the prospecting oil companies.
2. And that this was confidential information under the Act

Having been denied access to these agreements by the Attorney General and the Solicitor General, the two journalists then filed a suit in a Magistrates court.

³³ Section 43, Access to Information Act.

³⁴ Section 46, Access to Information Act.

The evidence was by affidavit sworn by the two journalists and the gist of their argument was that as citizens of Uganda they were entitled to this information and that they had a right to know. That it was important for accountability, transparency and efficiency of Government that these agreements be disclosed and that the private interests of oil companies would not supersede the wider public interests for disclosure.

When the matter came for hearing, the presiding magistrate quickly dismissed the argument by the Attorney General in defence seeking to rely on the confidential clause within the agreement reasoning that once the matter was before court the issue of a confidentiality clause would not arise as a court order would supersede any contractual obligation. One argument remained whether the agreements could be disclosed on account of public interest and whether the public interest was such that it required such a disclosure.

The Magistrate did falter the applicants for having provided no substantive evidence of the great public interest save one paragraph in the affidavit stating that the applicants and other citizens of Uganda had a right to know and a right to participate in Government.

That it was important that Government decisions be transparent and that government be accountable by availing citizens information as stipulated under the Constitution of Uganda Article 41.

Court went on to hold that whereas natural resources were held in trust for the people of Uganda the Government as a trustee had no obligation to disclose each and every information that related to that trust in other words a trustee had no obligation to disclose all information to the beneficiary and this was supported according to the court by the Access to Information Act.

On the other hand court also agreed with the Attorney General that in the evidence the Attorney General had provided that the majority of countries keep these agreements confidential. In the result that the suit was dismissed and each party was asked to pay their own costs. The two applicants have appealed to the High Court and the appeal is still pending.

This case highlights the difficulty of enforcing disclosure under the Access to Information Act the law as it is set out under the Access to Information Act in our view is such that it would be difficult for any applicant to force Government to disclose information which the Government and the information officer would not want to disclose. On the other hand, the law may be said to be useful in forcing Government agencies and individual government officers to disclose information which the Government does not necessarily consider very confidential or which the Government is not determined to withhold from the public.

iii. Access to Information Regulations, 2011

Under the ATI Act, the Minister was enjoined to pass Regulations to operationalize the Act. The Access to Information Regulations were passed in March 2011 six years after the Act was enacted.³⁵ To this end the Regulations provide for; forms of access, fees, procedures, prescriptions of accessible information and administrative measures necessary to give effect to the Act among others. At the moment the practical effect of the Regulations as passed is yet to be felt but most of the inherent strengths and weaknesses contained therein can be discerned from the text.

³⁵ Section 47, Access to Information Act. The Regulations were passed on 10th March 2011.

From the onset it is observable that the Access to Information Regulations are narrow in text and provision. A glance at Section 47 of the Access to Information Act reveals that the Regulations were expected to clarify and build on a broad range of issues in the Act but the final text is worryingly inadequate and silent on many procedural issues. Under Section 47 of the Act for example, the Regulations were meant to provide for a uniform criteria for proactive disclosure and further directions on interpretation of the Act.³⁶ This is not covered in the Regulations as passed.

Secondly, under Section 25 (2) of the Act, the Minister is required to specify the category of cabinet records that may be accessible to the public in the Regulations. This is however not the case in the present regulations which makes cabinet records extremely inaccessible notwithstanding that they are not exempted from access under the Constitution.

Further, the fees payable for every information request made under the Regulations are very prohibitive. Under Regulation 7, the cost for accessing information is fixed at one currency point which is an equivalent of Uganda Shs. 20,000. While this fee appears modest, it is by far unaffordable to majority of Ugandans who still live below one dollar a day.³⁷ It should also be noted that the set fee of Ushs. 20,000 contradict the spirit of the Act which is to the effect that fees payable must be reflective of the actual cost incurred to retrieve and reproduce the sought record.³⁸

Related to the issue of cost, under the Regulations the fees payable may be waived in the public interest and where the sought information is likely to benefit a large section of the public.³⁹ While this is laudable, the Regulations fall short of providing guidance as to when these exceptions come into play. Finally it should be observed that the cluster of fees imposed by the Regulations is unnecessary and burdensome and may be said to defeat the purpose of the Constitution to that extent. For instance under the Regulation 3 (7), fees are payable for transcription of an oral request into a written application. Also under Regulation 9 (c) a deposit is payable before any record can be searched for.

The above notwithstanding, the Regulations put in place a form of access under Regulation 3 and Schedule 2. All information seekers are required to fill in that form although this may be waived under certain circumstances. This flexibility allows even more citizen access to information without being bogged down by burdensome formalities. Further under Regulation 4, citizens may make electronic information requests. This is cheaper and in many instances saves on travel cost to the relevant body as well as printing and copying costs. Nonetheless this presupposes an efficient and functioning electronic access system which is not well developed at the moment.

On the whole the Regulations may be said to largely constitute tools for government technocrats and are therefore less citizen centred. It is for this reason that most provisions focus entirely on the Information Officer as opposed to information seekers. The Regulations are shallow and omit to provide for most

³⁶ ATI Act, Section 47 (i)(e) and 47 (1)(f) respectively

³⁷ Charles Mwanguhya Mpagi, 80% Ugandans are Poorer, Daily Monitor, May 24th 2012.

³⁸ ATI Act, Section 47(2)

³⁹ ATI Regulations, 7(3)

procedural matters contemplated under the Access to Information Act. In the end, information officers are not provided with sufficient guidance when dealing with requests brought under the Act.

II. An Analysis of ATI Related Legislation

h) Official Secrets Act

The Official Secrets Act greatly inhibits citizen's access to public records and is often cited by public official in denying access to the requested information.⁴⁰ The law came into force on 30th December 1964 and according to the short title, it is concerned with state security. The Act seeks to among others regulate the interaction between agents of foreign powers and prohibited premises on the one hand and access to official documents on the other. An official document under the Act is defined to include a passport, any naval, army, air force, police or official pass, permit, certificate, license or *other document of a similar character*.⁴¹ This is a rather sweepingly broad definition that in effect classifies all documents in the public realm. It may be understandable to limit access to security related documents like the army, air force, police or official pass but certainly it is troubling for the definition of an official document to include such documents like permits, certificates and licenses. Often permits, licenses and certificates are issued as a mode of regulation of a particular trade, business or practice with public impact. For example currently the government has issued oil exploration and production licenses to a few oil companies.

It is absolutely absurd that such documents once issued should not be readily accessible to the public under the Official Secrets Act. The essence of licensing is in most cases to protect citizens and the environment. In the context of oil discoveries, the affected communities and Ugandans at large should have access to oil licenses if they are to monitor oil related activities and to benefit from oil revenues. The right to access such documents also promotes good environmental practices as it allows citizens to continuously follow the practices of oil companies and to participate in environmental management.

The phrase "*documents of a similar character*"⁴² is equally ambiguous and subject to abuse. It is not clear under the Act who determines whether a particular document is of similar character. Information officers may hide behind this ambiguity to deny genuine information requests. Strictly, only those documents that relate to state security or sovereignty and those that infringe on another person's right to privacy should be excluded from scrutiny under the Official Secrets Act.

Under Section 2 of the Act, it is an offence to approach, inspect, enter upon or pass within the neighbourhood of a *prohibited place*.⁴³ While the Act defines prohibited places majorly to include those

⁴⁰ Interview with Mr. Kenneth Kakuru, Executive Director, Greenwatch Uganda, Held on November 2nd 2011.

⁴¹ Section 1(1), Official Secrets Act

⁴² *Id*

⁴³ Section 2 (1) (a), Official Secrets Act

related to defence activities, it vests the Minister with powers to designate a prohibited place. There is danger that these powers may be abused to declare such places like oil fields prohibited areas given the tension and secrecy that has engulfed the sector so far. Under the same section it is an offence to obtain and collect an official code, word, password, sketch, plan, model, article or other document calculated, that might be or is intended to be directly or indirectly useful to a foreign power for purposes prejudicial to the safety and interests of Uganda.⁴⁴ This provision is problematic as the notion of *interests of Uganda* is vague, undefined and subject to abuse. The only legitimate limitation should be state security and sovereignty and not just the mere interests of Uganda.

Further Sections 2 (2) and 2(3) shift the burden of proof with regard to offences committed under to the accused. This is contrary to the well-established principle of criminal law that vests the duty to prove the offence charged on a standard of beyond reasonable doubt on the prosecution. The section also defeats the intent and purpose of Article 28 of the Constitution which lays out the presumption of innocence. Under the Constitution every person charged with a criminal offence is presumed innocent until proved guilty meaning that an accused person does not assume the duty of proving his innocence rather the prosecution bears the duty to prove the guilt of the accused.

Section 4 of the Act has the most impact on access to public records under the Act. Pursuant to that section, it is an offence for any person in possession of a password, sketch, plan, article, document or other information access to which is prohibited by the act, to communicate such information to any unauthorized person.⁴⁵ It is also an offence under the provision for any person to receive such information. This provision has a chilling effect on both the information seeker and information holder and therefore limits free flow of information. Access is only permitted for authorized persons yet no guidance whatsoever is provided on who qualifies as an authorized person. This section thus constitutes an unjustifiable limitation to the right to information. In sum, the Official Secrets Act is an archaic and conservative law that has outlived its importance. Considering that national security is fairly dealt with under the Access to Information Act, this restrictive law should be repealed.

ii) Parliament (Powers and Privileges) Act cap 258

The Parliament (Powers and Privileges) Act came into force on the 24th February 1955. According to the long title, the purpose of the Act is to *define the powers and privileges of Parliament, secure freedom of speech in parliament and to protect persons employed in the publication of reports and other papers of Parliament*. From the outset it should be recognized that the Act restricts public access to the bulk of parliamentary records. This is especially evident in Section 14 of the Act which expressly prohibits any member or officer employed to take minutes of records of parliament or any parliamentary committee from disclosing any contents of information laid before parliament or any of its committees without the leave of Parliament. This provision came into question in the early constitutional case of *Zachary Olum & Another v. Attorney General*.⁴⁶ The petitioners in this case sought to challenge the Referendum Act 2000 on grounds that it had been passed without the requisite parliamentary quorum. In support of the

⁴⁴ Section 2 (1) (c), Official Secrets Act

⁴⁵ Section 4 (1)(a), Official Secrets Act

⁴⁶ Constitutional Petition No. 6 of 1999 (unreported)

petition, they sought to rely on a Hansard and on a record of parliamentary proceedings in evidence. This was objected to by the respondents on grounds that they had not sought leave of the Assembly under Section 15 of the then National Assembly (Powers and Privileges) Act. The Court reasoned that to deny the petition on these grounds would defeat the spirit and intent of Article 41 of the Constitution which guaranteed citizens the right to information in possession of the state or its agencies. In the circumstances the petitioners could rightly rely on the Hansard and recordings without the leave of Parliament to prove their case.

It is very troubling to subject the enjoyment of a constitutionally guaranteed right to Parliament and the Speaker of Parliament as was the case here. Additionally the provision as it was did not contain any grounds upon which a denial was to be based. The Section is therefore subject to abuse and constitutes an unjustifiable limitation on exercise of the right to information in possession of the state or its agencies such as Parliament.

iii) Press and Journalist Act cap 105

The Press and Journalist Act came into effect on the 21st of July 1995 and sets out to regulate the profession of journalism in Uganda. In the main, the Act provides for freedom of the press and puts in place a council for the regulation of mass media as well as an institute for journalists. The Act is to be taken as the sole law governing the regulation of the press and the profession of journalism, an amendment in the form of the Press and Journalist Amendment Bill has recently been introduced.⁴⁷ The Bill has wide implications not only on the journalism profession but also for the right to information. It introduces stringent restrictions on establishing and licensing media houses whose material may adversely affect national security, stability, unity, foreign relations or sabotage the economy.⁴⁸

The Act also contains a right to publish and print which cannot be derogated upon except in accordance with the Act.⁴⁹ Under Section 3, the right to publish and print can only be interfered with where the materials sought to be published contain pornographic materials and where they undermine privacy of others. The publication of false information is also prohibited under the same section. Publication of information forms the basis for public access to information and it is where information is available that the public can meaningful participate in affairs that concern them. To this extent the Act makes specific provision for the right to information under Section 4.

Section 4, Press and Journalist Act

A person may have access to official information subject to any law in force relating to national security, secrecy or confidentiality of information.

⁴⁷ Press and Journalist (Amendment) Bill, 2010

⁴⁸ See for example Sections 3 (aa), and 9 of the proposed Bill.

⁴⁹ Section 2, Press and Journalist Act

Finally, Section 9 of the Act establishes a Media Council comprised of the Director of Information, scholars, nominees of editors and newspaper proprietors, representatives of the electronic media and Journalists, members of the public and a practicing lawyer among others. One of the chief functions of the Council is to promote the free flow of information.⁵⁰ The section is laudable to this extent although in practice the free flow of information has been very rare.⁵¹ The Press and Journalist Act may overall be said to be pro access on the most part albeit the strict regulation regime introduced by the Bill not only threatens the profession of journalism but also serves to limit free information flow.⁵²

iv) Evidence Act cap 6

The Evidence Act is one among the many colonial laws that were inherited from the British colonialists at independence. Its date of commencement is stated to be August 1st, 1909. The Act applies to all judicial proceedings in or before the Supreme Court, Court of Appeal, High Court and all courts established under the Magistrates Court Act. Although the Act is mainly concerned with proof of matters of law and fact before courts of law, it has wide implications on the right of access to information. Section 122 of the Act in particular contains the most significant effect on the right to information.

Section 122, Evidence Act

No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold that permission as he or she thinks fit.

In effect the section gives the head of department vast powers in determining whether to disclose information in his/her department. There are no guidelines whatsoever put in place by the Act on circumstances upon which the disclosure should be denied. This leaves it solely at the discretion of the head of department who may deny a request as he thinks fit notwithstanding that such a denial may be undemocratic and unlawful. Secondly the phrase *official records relating to any affairs of State* which forms the basis for information denials under the Section is unclear and difficult to define. This makes it subject to abuse since there is no guideline of what such records include. The only state affairs that cannot be disclosed under the Constitution are those relating to state security and sovereignty. Closing all information relating to state affairs from access in this case is counter the Constitution and constitutes an unjustifiable limitation on the right to information.

⁵⁰ Press and Journalist Act, Section 9 (1) (d)

⁵¹ Interview with Sebaggala Wokulila, Coordinator, Uganda Human Rights Network for Journalists

⁵² For more about the proposed Bill see, A Dummy's Guide to Press and Journalist Bill 2010, Human Rights Network Uganda, June 2010. Also available on www.hurinet.or.ug

The effect of Section 122 of the Evidence Act was considered in the Constitutional case of *Major General Tinyefuza v. Attorney General*.⁵³ The petitioner in this case sought to adduce radio messages in court to support his case. This was highly contested by the respondents on the basis that the petitioner did not obtain the approval of the head of department as required under Section 122 of the Evidence Act. In its ruling, the Constitutional court found that section 122 constituted an unjustifiable limitation to the constitutionally guaranteed right to information. The Court also stated prominently that the right to information included the right to use such information in defence of oneself before the courts of law. The radio messages were thus found to be admissible in this case notwithstanding that the fact that the required approval had not obtained. Section 122 of the Evidence Act just like the Official Secrets Act is a conservative provision maintained to cloak public authorities from public scrutiny. As discussed above the Courts have pronounced it unconstitutional and the expectation is for Parliament to amend the Act and get rid of the unjustifiable upshot of the provision of 122.

v) Trade Secrets Protection Act, 2009

The Trade Secrets Protection Act came into force on the 12th of June 2009. The Act establishes a protection regime for undisclosed information related to commercial transactions.⁵⁴ For the purpose of the Act a trade secret is defined to mean information including but not limited to a formula, pattern, compilation, program, method, technique, process or information contained or embodied in a product, device or mechanism. For this information to be protected, it must be a subject of efforts to maintain its secrecy; should have economic value and should be such as may be used but is not generally known in any trade or business.⁵⁵ This protection extends to all government institutions and persons.⁵⁶

Section 3 of the Act puts in place a right to prevent disclosure, acquisition or use of trade secret. The section states thus;

Section 3, Trade Secrets Protection Act

A person has the right to prevent information lawfully within his or her control from being disclosed to or acquired, or used by others without his or her consent, in a manner contrary to honest commercial practice.

To claim the right above, one should establish that; the information sought to be protected is a secret which is not generally known and is not readily accessible to persons that normally deal with that kind of information. Secondly the information in respect of which the protection is sought must have commercial

⁵³ Const. Petition No.1 of 1997

⁵⁴ Long Title, Trade Secrets Protection Act

⁵⁵ Section 2, Trade Secrets Protection Act

⁵⁶ Section 3 (1), Trade Secrets Protection Act

value and reasonable steps should have been taken to keep it secret.⁵⁷ Finally the acquisition, disclosure or use of the information must be contrary to commercial practice.⁵⁸ Section 6 of the Act describes in great detail what conduct amounts to commercial malpractice for purposes of determining an infringement under the Act. It is an infringement to acquire, disclose or use a trade secret in an improper manner and such conduct grants a right of action to the owner of such secret.⁵⁹ The provisions therefore attempt to protect trade secrets from disclosure to the detriment of the owner.

Section 11 of the Act has the most profound impact on the right to information. The section on the whole governs treatment of trade secrets mandatorily submitted to government departments. In that case the relevant government department to which the information has been furnished is enjoined to protect such information from disclosure unless measures have been taken to protect such information from unfair commercial use.⁶⁰ The same section however establishes two exceptions under which the government agency may disclose the protected information. These include instances where the disclosure is necessary to protect the public and where steps to prevent unfair commercial use have been taken.⁶¹

On the whole it may be said that the spirit and intent of the Trade Secrets Act does not limit the right to information per se but rather seeks to protect owners of trade secrets and guarantees them the opportunity to benefit from their innovations. That said it should be recognized that trade secrets are largely privately owned even though they may find their way into the hands of a public body. Disclosing them in the circumstances should only be for legitimate public interest considerations which include state security and sovereignty. Free open access to trade secrets threatens innovation and is more likely to infringe proprietary rights protected under the Constitution.⁶²

Table 1: Summary of Strength and Weaknesses in the Law

This table seeks to assess which provisions of the law may result in passive or active resistance to openness. For this purpose passive resistance is understood to mean instances where government refuses to fulfil the spirit of Freedom of Information laws in a more subtle manner while active resistance entails open opposition to a change in cultures of secrecy by governments.⁶³

⁵⁷ Section 4, Trade Secrets Protection Act

⁵⁸ Section 3, Trade Secrets Protection Act

⁵⁹ Section 5, Trade Secrets Protection Act

⁶⁰ Section 11 (2), Trade Secrets Protection Act

⁶¹ Section 11 (3), Trade Secrets Protection Act

⁶² Constitution of Uganda 1995, Article 26

⁶³ See Victor Brobberry, Kenneth Kakuru, Carole Excell et al (2010), Active and Passive Resistance to Openness; The Transparency Model for Freedom of Information in Africa, WRI Working Paper No.

	Section of provision	Provision	Resistance? (Y/N). If Y, active or passive?
Passing of regulations	Section 47 (1)	<p>Under this provision, the Minister may by statutory instruments, make regulations to provide for matters related to fees, forms of requests, a uniform criteria to be applied in granting information, categories of information that may be denied and for general administrative and procedural matters to give effect to the Act.</p> <p>a)</p>	Yes- Active (For long the government delayed to pass the Regulations notwithstanding that they had draft regulations much earlier)
Preparation of manuals	Section 7 (1)	<p>a) Under this provision, information officers are required to compile a manual of information within six months after the commencement of the Act or the coming into existence of a public body. The manual should entail a description of the public body and its functions, postal and street address, category of records held by the body and procedures for accessing that information, opportunities available for participation, remedies available and all other information as may be described. ,</p> <p>b)</p>	Yes – Passive Despite clear provisions of the law, only one ministry so far (Ministry of Lands) has published a manual.
Fees	Section 47 (2)	The fee for access to be prescribed by regulations under this section shall be a fee representing the actual cost of retrieval and reproduction of the information.	Yes- Passive resistance in as far as it took almost 6 years to pass the Regulations that eventually prescribed the fees. Also Regulations set a reasonably high fee
Processing of requests	Section 16	<p>Section 16 (1)– Under this provision an Information officer is required to determine whether to grant access to the sought information and notify the person making the request of that decision within 21 days.</p> <p>Under Section 16 (2), Such a notice should contain the fee payable and inform the requester of his right to appeal the decision.</p>	Yes- Passive Many times information requests are not decided on in time and in some

		Under Section 16 (3) where a request is denied, adequate reasons should be provided and the person requesting for information informed of his right to appeal. .	instances no feedback is given.
Supremacy of legislation	None	N/A	There is no express provision to the effect that the ATI law stands over the other laws.
Enforcement	Section 43	Under Sec 43 (1), Each Minister is required to submit an annual report to Parliament on requests for access to records or information made to public bodies under his or her ministry and the report should indicate whether access was granted and reasons for denial where it was not granted	Yes- Passive At present no Minister has submitted an annual report to parliament despite clear provisions of the law.
Mandatory disclosure in public interest	Section 34	Section 34 provides for mandatory disclosure where the sought information would reveal evidence of a substantive contravention of, or failure to comply with the law, an imminent public safety or environmental risk and where the public interest in the disclosure is greater than the harm contemplated in the provision in question.	Yes- Passive Resistance. For example in the recent case involving disclosure of oil production sharing agreements, information was denied notwithstanding that it was sought in the public interest.

Table 2: Review of Other Laws Relevant to ATI legislation

Law	Year	Relevant Provision of other law	Consistent with Constitution		Consistent with ATI law	
			Y/N	Explanation	Y/N	Explanation
Official Secrets Act	1964	<p>Under Section 4 (1)- Any person commits an offence who, having in his or her possession or control, any secret official code word, or password, or any sketch, plan, model, article, note, document or information that relates to or is used in a prohibited place or anything in such a place, or that has been made or obtained in contravention of this Act, or that has been entrusted in confidence to him or her by any person holding office under the Government</p> <p>a) communicates the code word, passport, sketch, plan, model, article, note, document or information to any person, other than a person to whom he or she is authorised to communicate with, or a person to whom it is in the interests of Uganda his or her duty to communicate it;</p> <p>Further under Section 4 (3), it is an offence to receive any prohibited information. This includes any sketch, plan, model, article, note, document or information that relates to munitions of war.</p>	No	<p>The Official Secrets Act unjustifiably criminalises communication of any sort of information including official documents whose definition is worryingly broad that it includes almost any other document even if such a document is not related to security. This produces a chilling effect which greatly limits the enjoyment of the right to information.</p> <p>Also the phrase prohibited place is undefined and may vary with the whims of the Minister.</p>	No	Criminal sanctions against both information seekers and duty holders constitute an impediment to full enjoyment of the right to information contrary to the spirit of the Act. The Act seeks to promote the right to information.
Evidence Act	1909	Section 122- Under this section, no person is permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned. Such officer shall give or withhold that permission as he or she thinks fit.	No	The right to information under the Constitution is not subject to any person's discretion. The Evidence Act is inconsistent with the Constitution to the extent that it requires permission of the head of department.	No	The ATI Act grants an express right to information that is not subject to any one's permission or authority.

		Section 14 (1) - Under the provision no member or officer of Parliament and no person employed to take minutes of evidence before parliament or any committee shall give evidence elsewhere in respect of the contents of the minutes of evidence or of the contents of any document laid before parliament or the committee or in respect of any proceedings or examination held before parliament or the committee without the special leave of Parliament first had and obtained.			
Parliament (Powers and Privileges) Act cap 258	1955	Under Section (14) (2), the special leave during a recess or adjournment may be granted by the Speaker or, in his or her absence, by the clerk.	No	The Constitution clearly guarantees citizens a right to all public information and it is not a requirement to obtain permission for anyone to exercise this right.	No Parliamentary information is not among the categories of information exempted under the Act. .

Table 3: Legislative Impact Assessment

Provision of ATI law/ Regulations	Year	Provision not yet in force/implemented	Delay (in years) in bringing provision into force after passage of law
Manual of functions	2005		7 years and not yet in force
Passing of Regulations	2005		6 years
Annual Report to Parliament	2005		7 years and not yet in force

B. TRANSPARENCY PROVISIONS IN SECTOR LAWS: ENVIRONMENT AND NATURAL RESOURCE LAWS

I. ENVIRONMENT

i) National Environment Act cap 153

The National Environment Act (NEA) regulates environmental use and other related aspects in Uganda. The Act came into effect on 19th May 1995 and sets out to among others provide for sustainable management of the environment and to establish an authority (National Environmental Management Authority- NEMA) for that purpose.⁶⁴ The NEA also lays down various principles of environmental management which include maximum public participation in development of policies, plans and processes for environmental management. It is beyond question that public participation in environmental management is only possible where there is free a flow of information. The Act can to this extent be said to incorporate access to information as key aspects of sound environmental governance.

Prominently, Section 85 of the Act provides for a right to environment information. Under the Section, any person may apply to the authority or lead agency for information upon payment of the prescribed fee.⁶⁵ The only information that is exempted from disclosure is proprietary information.⁶⁶ Proprietary information under the Act is defined to include *information relating to any manufacturing process, trade secret, trademark, copyright, patent or formula protected by law or by international treaties to which Uganda is party.*⁶⁷ The provision provides as follows;

⁶⁴ National Environment Act, Long Title

⁶⁵ National Environment Act, Section 85 (2)

⁶⁶ National Environment Act, Section 85 (3).

⁶⁷ Section 1 (aaa), National Environment Act.

Section 85, National Environment Act

- (1) Every person shall have freedom of access to any information relating to the implementation of this Act submitted to the authority or to a lead agency.
- (2) A person desiring the information shall apply to the authority or a lead agency and may be granted access on payment of a prescribed fee.
- (3) Freedom of access to environmental information does not extend to proprietary information which shall be treated as confidential by the authority and any lead agency.

The Act also obligates the authority (National Environment Management Authority) to gather, analyze and manage information relating to the environment.⁶⁸ The authority is equally mandated to disseminate environmental information, establish guidelines for information dissemination and information exchange with other Ugandan and international agencies. Importantly, the authority is required to publish a state of environment report every two years which is a form of proactive disclosure. In effect the Authority plays a promotional role while at the same time ensuring the free flow of information. It should be recalled that the Access to Information Act does not establish a particular body for the promotion of the Act and its provisions. The NEA is therefore laudable in as far as it puts in place a body with the mandate to promote access to environmental information while encouraging proactive information disclosure.

Finally, unlike the Constitution and the Access to Information Act, the right to environmental information under the NEA is accorded to all persons. One does not have to be a citizen in order to access information under the Act. Proof of citizenship is quite onerous especially for corporate persons and non-profits. In the Greenwatch case for instance, the petitioner (Greenwatch) could not access the sought information on ground that it had failed to prove its citizenship as a corporate person.⁶⁹ The National Environment Act is therefore laudable for extending the right to information to non-citizens. On the whole the National Environment Act is a highly innovative law that promotes the right to environmental information in diverse ways. It is surprising that the Act which was passed before the Access to Information Act has a more progressive access regime.

Case Study: National Association of Professional Environmentalists Vs AES Nile Power

This application was brought by way of notice of motion under Order 48 Rules 1 and 2 of the Civil Procedure Rules, s.109 of the Civil Procedure Act and S. 72 of the NEMA Statute. It sought a temporary injunction to stop the respondent from concluding a power purchase agreement with the Government of Uganda until the “National Environment Management Authority (NEMA)” had approved an Environmental Impact Assessment (EIA) on the project.

⁶⁸ National Environment Act, Section 86

⁶⁹ Greenwatch Uganda Limited v. Attorney General and Uganda Electricity Transmission Company Ltd (UETCL), HCCS No. 139 of 2001 (High Court) (unreported)

The motion further sought declarations that such approval of the Environmental Impact Assessment is a legal prerequisite and that endorsement of the project by parliament without National Environment Management Authority approval of the Environmental Impact Assessment (EIA) would contravene a law and thus be illegal, null and void and of no effect.

Held.

1. In the circumstances of the case, the applicant has reason to seek the intervention of this court in so far as no approval of the environment aspects of the study has been brought in evidence to satisfy the requirements of s. 20 (b) of the National Environment Management Authority Statute. To this extent, he's entitled to bring the action.
2. I am able to declare though not in terms of the declaration sought that the EIA's presented by the respondent's consultant in this project must be approved by the lead agency and the National Environment Management Authority.
3. The declaration sought by the appellant relating to parliamentary approval is unnecessary to consider since parliament would equally be advised and is capable of knowing their power. Since no approval has been given by parliament, this court can't acquire as to whether it will or will not grant the approval in contravention o the law.

In the circumstances, the declarations sought in the motion are not granted; save that this court declares that approval of the Environmental Impact Assessment (EIA) by National Environment Management Authority is required under s. 20 of the NEMA Statute.

The injunction is also denied.

General comments

Sometime in 1995, the Government of Uganda proposed to build a hydro electric dam along the River Nile at Bujagali referred to here as the Bujagali dam. Apparently the President of Uganda had met with officials of AES Corporation in United States and had interested them in building a dam in Uganda.

The process was however shrouded in secrecy, there was no public announcement or invitation for bids to construct the dam and as such the public and even parliament remained in the dark. A project Company AES Nile Power Limited was registered in Uganda with a share capital of 1 million (1,000,000) Uganda Shillings equivalent to about four hundred (400 US \$) with three share holders one of whom was a Director with the AES United States Company and the other local business man.

This information was obtained by Greenwatch after a search at register of Companies. The search further revealed that of the One million (1,000,000) Uganda Shillings registered share capital only Twenty thousand (20,000) Uganda Shillings was paid up with government, (equivalent of less than 10 US \$). This is the Company that was negotiating with government to construct and operate a hydro electric dam at a cost of Five Hundred (500) US \$ for a period of 30 years.

An agreement was prepared and signed with the government in secret, a basis of which the developer was to seek funding from IFC, World Bank, and other international financial institutions. The international financiers required the government of Uganda to guarantee the loans which it seems the government was ready to do however Ugandan law required parliamentarians approval before Government could guarantee any loans, it is at this point that a request was made to parliament for the guarantee both the public and parliament were getting to know about the Agreement for the first time.

As a strategy, to access the power purchase agreement and to stop Parliament from issuing the guarantee without first making the sharing agreement public, the above suit was brought in court because generally under the law an injunction would not issue against government later along parliament the plaintiffs in this case an environmental Non Governmental Organisation sued the project Company.

Envisaging that it would be difficult to bring a public interest action or access to information against a private Company having chosen not to sue the Government, the plaintiff chose to bring an action under the National Environment Act because the Act had more express provisions relating to Access to Information than any other law. The basis of the case was that the plaintiff was challenging the legality of parliament to guarantee a loan for a project which had not carried out an EIA- a mandatory requirement of the law.

Although the case was not very successful, it established an important principle of “locus standi”. Citizens could now bring such action in public interest. It is on the basis of this case that Greenwatch Ltd Versus Uganda Electricity Generation Company Ltd case was based.

ii) National Environment (Environmental Impact Assessment) Regulations

The requirement for an Environmental Impact Assessment in respect of all activities that impact on the environment is one of the most innovative aspects introduced by the National Environmental Act. Under the Act, every person who intends to commence a project that *may, is likely or will have* a significant impact on the environment should undertake an environmental impact assessment.⁷⁰ Procedures for carrying out environmental impact assessments are laid down in the National Environment (Environment Impact Assessment) Regulations. These are made pursuant to Section 107 of the Act that grants the Minister Powers to make Regulations for the purpose of giving full effect to the Act. Among the key provisions in the Regulations is the provision on public participation during the study, as well as the obligation to conduct public hearings so that the authority can make the soundest decisions.⁷¹

Like the NEA, the Regulations also provide for the right to environmental information in very specific terms. Regulation 29 lays down the list of accessible public documents for the purposes of Article 41 of the Constitution which embodies the right to public information. For the purpose of the Regulations, public documents include project briefs, environmental impact review reports, environmental impact evaluation reports, environmental impact statements, terms of reference, public comments, report of the presiding officer at a public hearing or any other information submitted to the NEMA Executive Director or the technical committee.⁷² The provision in effect makes these documents freely accessible to the public upon request. The Regulations thus promote access to environmental information accumulated

⁷⁰ National Environment Act, Section 19

⁷¹National Environment (Environmental Impact Assessment) Regulations, Regulations 12 and 22 respectively

⁷²National Environment (Environmental Impact Assessment) Regulations, Regulation 29

during the conduct of environmental impact assessments. This is critical in promoting public participation in environmental management and in turn enhances sustainable environmental protection.

II. FORESTRY

i) National Forest and Tree Planting Act, 2003

The National Forest and Tree Planting Act came into force on the 8th of August 2003. The stated purpose of the Act can be summarized as follows; *to provide for conservation, sustainable management and development of forests for the benefit of the people of Uganda.*⁷³ The Act also aims at consolidating the law on the forest sector and all trade in forest produce while at the same time promoting tree planting.⁷⁴ Under Section 2, the Act serves to highly encourage the role of the public in management and conservation of forests while at the same time facilitating public awareness on the benefits of forest cover conservation. In summary the National Forest and Tree Planting Act regulates tree planting, forest exploitation and trade in forest products in Uganda.

The National Forestry and Tree Planting Act provides for the right to information in specific terms under Section 91.

Section 91, National Forestry and Tree Planting Act

- (1) Every citizen has a right to access to any information relating to the implementation of this Act, submitted to or in the possession of the State, a local council, the Authority or a responsible body.
- (2) A person desiring information under subsection (1) shall apply to the relevant body under subsection (1), and shall be granted access to the information on the payment of the prescribed fee, if any in a prescribed manner.
- (3) Freedom of access to information under this section does not extend to proprietary information which is treated as confidential.
- (4) For purposes of this section, “proprietary information” shall mean information on research or practices initiated or paid for by an individual or private company or financial standing of an individual or private company which is not for public consumption.

Under the Act, all information related to implementation of the Act and in possession of the state, local council, authority or responsible body can be accessed by any citizen. Only proprietary information is

⁷³ Long Title, National Forestry and Tree Planting Act

⁷⁴ *Id.*

exempted from free access to the public under the Act. Proprietary information is defined under the Act to mean '*information on research or practices initiated or paid for by an individual or private company or financial standing of an individual or private company which is not for public consumption.*' Proprietary information is exempted from access both under the Constitution and the Access to Information Act.⁷⁵ The National Forestry and Tree Planting Act however falls short of defining what kind of proprietary information is deemed unfit for public consumption. It should be observed that once information including proprietary information comes into the hands of government it becomes *prima facie* public information and the government can only deny access to such information under clear instances as contained in the constitution. It is also observed that unlike the NEA, the Act limits the right of access to citizens just like the Constitution and the Access to Information Act. Nonetheless the National Forestry and Tree Planting Act is one of the few laws with a specific provision on the right to information outside mainstream access to information laws.

ii) National Environment (Audit) Regulations, 2006

The National Environment (Audit) Regulations are made under Section 107 of the National Environment Act that grants the Minister Powers to make regulations for implementation of the Act. The Regulations effectively came into force on the 8th day of October 2004 and apply to environmental audits carried out under the Act, voluntary audits, audits required by the Environmental Impact Assessment Regulations⁷⁶ as well as other related audits.⁷⁷ An environmental audit under the Regulations should be conducted by a registered environmental auditor who is required to prepare a report with contents as are laid down in Regulation 6.⁷⁸

Ineptly, while the Regulations provide for public consultation in enforcement of environmental audits, it is entirely at the discretion of the environmental auditor.⁷⁹ There is no provision whatsoever for the public's right to information contained in environmental audits. This is a departure from the spirit of the National Environment Act which solidly guarantees the right to records on processes undertaken under the Act. It appears thus that records comprising of environmental audits can only be accessed using the full force of the NEA and not the Regulations themselves.

III. MINING

i) Mining Act 2003

The Mining Act is made under Article 244 of the Constitution which enjoins Parliament to make laws to regulate mineral exploitation. The purpose of the Act is to; give effect to the provisions of the Constitution, vest ownership and control of minerals in the government and to provide for the acquisition

⁷⁵ See Article 26, Constitution of Uganda and Sections 4 and 27 (1)

⁷⁶ *Id.*

⁷⁷ National Environment (Audit) Regulations, Regulation 3

⁷⁸ National Environment (Audit) Regulations, Regulations 4 and 5 respectively

⁷⁹ National Environment (Audit) Regulations, Regulation 16

of minerals among others. On the whole, the law concerns itself with the issuance of mining licenses and leases, inspection of mining operations, trade in minerals, mineral and surface rights as well as environmental protection.

Notwithstanding the fact that the Act regulates several activities with significant impact on the environment, the affected communities and revenues, it has no specific information provision. The Act only allows public access to contents of a register of information relating to the mineral right but not the prospecting license.⁸⁰ The bulk of the activities central to sound environmental management such as environmental impact assessments and audit processes are very likely to escape public scrutiny. It should be noted that the exploration, production and trade in minerals is very sensitive and if not well managed can stimulate public dissatisfaction, conflict while also risking the environment. Public access to mining records is crucial to guard against these shortcomings and it is regrettable that the Act excludes the right to information related to major mining activities notwithstanding that it was enacted well after the Constitution

On the contrary the Act vests overwhelming powers to access information on the Commissioner for Geological Survey and Mines department. For instance under Section 14, the Commissioner may enter upon any land for the purpose of acquiring any information and examining documents of any kind. The Commissioner also has powers to obtain information from any person he believes is capable of providing information relating to minerals obtained in exercise of a mineral right.⁸¹ It is an offence to fail to comply with the Commissioner's request for information and to knowingly provide false information under the Act.⁸² In effect the Act vests the Commissioner with wide powers to access all information as he deems fit but does not put in place a corresponding mechanism that ensures that once the information has been provided, the public should be able to access such information from the relevant public body. As previously noted, mining has a wide impact on the environment, communities and public revenues. Access to information provides a tool for sustainable management of minerals while guaranteeing environmental protection and accountability for revenues collected from mining activities. In as far as the Mining Act 2003 does not incorporate the right to information related to mineral exploitation, development and trade; it fails to meet this great need. For now most of this information can only be accessed using Constitution and in some instances the Access to Information Act and National Environment Act. The Mining Act retains the spirit of secrecy in the repealed Mining Act notwithstanding that it was passed after the Constitution which guarantees the right of Access to Information.

ii) Mining Regulations 2004

The Mining Regulations were made under Section 121 of the Mining Act and came into force on the 2nd of September 2004. Under that provision, the Minister is enjoined to make Regulations for the conservation and development of mines and minerals. The Regulations among others put in place

⁸⁰ See Sections 93 and 95, Mining Act

⁸¹ Section 107 (1), Mining Act

⁸² Section 107 (5), Mining Act

procedures for acquisition of; prospecting licenses, priority for grant of mineral rights and the various types of licenses and leases. The regulations also address other numerous aspects to do with records, returns, beacons, boundaries, surveys, registration and environmental protection. The Mining Regulations as expected are largely shaped by the provisions of the Act.

Unsurprisingly, the Regulations do not make specific provision for the right to mining information. Like the Act, the bulk of the information provisions in the Regulations concern themselves with powers of the Minister to obtain information. For instance, Regulation 52 obligates mineral rights holders to keep records for inspection by the Commissioner or any other authorized officer. Regulation 83 makes it an offense to furnish false records or not to keep records as directed by Regulation 52. In all, the Regulations enforce the Commissioners powers to obtain information from a variety of persons but are silent on the publics' right to access such information. It is acknowledged that Regulations unlike the Act cannot introduce a predominantly new issue but rather provide further guidance on the implementation of Act's provisions. In this regard, the Mining Act should be revisited to provide for a specific right to information related to mines and minerals and once this is achieved it will inevitably spill to the Regulations.

IV. OIL

i) Petroleum (Exploration, Development and Production) Bill 2012

Amidst increased pressure to streamline activities in the oil sector, government tabled two petroleum Bills before parliament in early 2012. The discovery of commercially viable amounts of oil prompted concerns over transparency in management of oil revenues, environmental management and the general institutional framework of the oil sector. These require a comprehensive legal framework and the proposed Petroleum (Exploration, Development and Production) Bill 2012 attempts to address some of these concerns. According to the long title, the Draft Bill is aimed at among others; giving effect to Article 244 of the Constitution, regulation of petroleum exploration and development; provision of transparent licensing and establishing a conducive environment for promotion of Uganda's petroleum potential. Additionally, the Bill sets out to among others provide for; payment of royalties from petroleum activities and establishment of a Petroleum Authority for Uganda and a National Oil Company. Noticeably, the Bill also seeks to repeal the current Petroleum (Exploration and Production) Act cap 148. Clause 2 lays down the purpose of the Bill in more detailed terms which forms the basis for most of the subsequent provisions. The stated purpose includes among others; operationalization of the National Oil and Gas Policy; regulation of Petroleum activities, establishment of institutions and regulation of petroleum activities.

The Draft bill makes specific provision for the right of access to information unlike the Petroleum (Exploration and Production) Act cap 149 that it seeks to repeal.⁸³ Under the Bill, the Minister is enjoined to make available to the public, details of all agreements, licenses and amendments thereto among others. The Minister is also required to avail the public with information relating to exemptions, variations,

⁸³ Petroleum (Exploration, Development and Production) Bill, Clause 148

assignments and conditions for licenses as well as approved field development plans. On the outlook, this could be viewed as a big attempt at opening up the petroleum sector to public scrutiny through increased access to relevant documents. However, the right to information under this provision is subject to two exemptions namely; confidentiality of data and commercial interests in accordance with the Access to Information Act. As already observed above, the exemption regime under the Access to Information Act which out rightly excludes confidential and commercial information from access to the public is by far too limitative and goes beyond the clear exceptions laid out under Article 41 of the Constitution. Applying the same limitations in Clause 148 of the Bill in effect closes off the petroleum sector from scrutiny. It is strongly recommended that the limitations contained in Clause 148 be replaced with the rather clear Constitutional limitations under Article 41

Equally important, Clause 4 of the draft Bill enjoins all licensees and persons acting under the Act to comply with environmental principles contained in the National Environment Act (NEA) and other laws applicable to petroleum activities. As already noted, one of the principles under the NEA is public participation in environmental management which can only be achieved where there is free flow of information. The National Environment Act also specifically provides for the right to environmental information.⁸⁴ It can thus be said that in as far as the Bill adopts the principles set forth in NEA; it implicitly incorporates the right of access to information in petroleum exploration, development and production.

The Bill also sets up a Petroleum Authority of Uganda whose proposed functions include the management of petroleum data and the publication of petroleum activities.⁸⁵ Relatedly, under clause 145, all petroleum data generated under the Act is owned by the state and the Minister is obliged to establish a National Oil and Gas Resource Data Bank. This is central in enhancing access to information surrounding oil and petroleum activities and encourages proactive disclosure of information. Proactive disclosure is also provided for under Clause 48 (4) which enjoins the Minister to make public all environmental impact assessments conducted in areas to be opened up for petroleum activities. Further the Minister is required to publish a notice of application for all exploration licenses.⁸⁶ This not only promotes the free flow of information in possession of the Authority but also makes less costly for information seekers to access the relevant information since they do not have to incur access fees.

Aside from the limitations above, the draft Bill also prohibits disclosure of information submitted by a licensee to any other person other than the Minister or public servant without the licensee's consent.⁸⁷ This is rather unreasonable for all information once submitted to government automatically becomes public information and should be freely accessible save under specific circumstances. Lastly, a board member or staff of the Petroleum Authority is not permitted to disclose any information that he/she may have obtained in the course of employment. This limitation extends beyond the duration of employment

⁸⁴ Section 85, National Environment Act

⁸⁵ Clauses 10 and 11, Petroleum (Exploration, Development and Production) Bill

⁸⁶ Clause 55 , Petroleum (Exploration, Development and Production) Bill

⁸⁷ Clause 150, Petroleum (Exploration, Development and Production) Bill 2012

to the time when the employment ceases.⁸⁸ This has a chilling effect yet public servants have a constitutional duty to supply citizens with information unless that information sought is prejudicial to state security or sovereignty or interferes with another person's right.

ii) Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Bill 2012

Besides the Petroleum (Exploration, Development and Production) Bill, the government introduced the Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Bill 2012 at almost the same time. The Draft Bill aims at giving effect to Article 244 of the Constitution, regulating and promoting policy on petroleum refining, gas processing and conversion, transportation and storage. The other objectives of the Bill include; provision for a health and safety environment, cessation of petroleum activities and decommissioning of petroleum facilities. The Bill also aims at providing an open, transparent and competitive process of licensing.⁸⁹

Part XI of the Bill is solely dedicated to information and documentation. Clause 76 provides for public access to information related to petroleum refining, gas processing and conversion, transportation and storage. The provision enjoins the Minister to make available to the public, details of all agreements, licenses, all amendments and assignments. This is subject to confidentiality of data, commercial interests and provisions of the Access to Information Act 2005. On one hand the provision seems progressive in as far as it facilitates public access to information regarding petroleum refining, conversion, transportation and storage but on the other hand, it is riddled with several claw back clauses that make it very difficult for citizens to access the desired information.

For instance commercial confidentiality is not defined and is subject to diverse interpretations. On its part, the Access to Information Act is rather restrictive hence subjecting the right to information to commercial confidentiality and the Act is unnecessarily hindering to citizens requests for information. The other limitation under the provision is confidentiality of data. This is also reiterated in clause 77 of the Draft Bill. Under this clause, all data submitted to the government by a licensee is confidential and should not be reproduced or disclosed to third parties except with the consent of the government. Lastly the Bill does not clarify on the amount of fees payable upon making an information request. While this is ordinarily a function of the regulations, the Bill should clarify that the fees payable should be reasonable and reflective of the actual cost of retrieving the sought record.

Besides Part XI, the Bill has other provisions that can be said to advance the right to information. One of such provisions is Clause 12 which enjoins the Minister to publish a notice of all applications for licenses made under the Bill. Such notice should contain among others the description of the nature and location of the proposed activity. The Minister is also obliged to avail the application for public inspection at his/her office provided this is within the limits of commercial confidentiality. This provision is quite

⁸⁸ Clause 33 (1) and (2), Petroleum (Exploration, Development and Production) Bill 2012

⁸⁹ See Long Title to the Draft Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Bill, 2012. See also Clause 2 of the Draft Bill.

enabling and promotes information access although as discussed above the phrase commercial confidentiality is rather vague.

Lastly, it is important to point out some of the limiting provisions under the Bill which include Clauses 20 and 93. Under Clause 20 of the Bill, every licensee is required to furnish the Minister with full information concerning the licensee's operations, records and accounts. Similarly, Clause 93 of the Bill grants the Minister Powers to obtain information from any person he reasonably believes is in possession of particular information. Refusal or failure to comply with the Minister's request is an offence. Ordinarily these powers when exercised would enrich the available information but regrettably such information is confidential and not freely accessible to the public for such period as specified in the license or contract.⁹⁰

In sum, all the proposed Petroleum Bills promote information access and public participation in some instances but are riddled with far too many exemptions and overly restrictive clauses that make it extremely difficult for citizens to obtain information related to petroleum activities. The right to information under these Bills is subject to confidentiality of data, commercial interests and the Access to Information Act. As seen above, the latter law in itself is limiting while confidentiality of data and commercial interests are all vague considerations behind which duty bearers hide to deny citizens their right to information in the oil sector.

iii) Public Finance Bill 2012

The Public Finance Bill provides for more general finance aspects such as macro-economic policy, fiscal responsibility, multi-layer expenditures, supplementary budgets and auditing and accounting committees among others.⁹¹ The Bill also establishes a Petroleum fund and a petroleum investment reserve which are responsible for the management and investment of petroleum funds respectively.⁹²

Since oil revenues are public income, citizens have a right to know how they are managed and spent. This the Public Finance Bill facilitates in a number of ways. First, under clause 60 of the Bill, the Minister is enjoined to table before parliament financial statements and annual reports of the Petroleum fund every year not later than 30th September. These should indicate among others; the actual inflows and outflows of the petroleum fund, volumes and values of the produced petroleum and the source of the petroleum revenue.⁹³ Over and above, these reports should be published in newspapers of wide circulation. This is a form of proactive disclosure and makes it cheaper for the public to access information related to oil revenues.

Similarly under Clause 69, Bank of Uganda (BOU) is mandated to present a report to the Minister on performance and activities of the fund. Beyond this the bank (BOU) is required to publish these reports

⁹⁰ See Clause 20 (2) Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Bill, 2012

⁹¹ See Long Title, Public Finance Bill 2012.

⁹² *Id.*

⁹³ Clause 60 (b), Public Finance Bill, 2012.

and to make them available on their website within one week of publication.⁹⁴ Relatedly, under Clauses 70 and 71, the bank (BOU) is required to publish an annual plan and report of the Petroleum Investment Reserve. It can thus be concluded that to the extent that Clauses 69, 70 and 71 make it a requirement to make public annual reports, statements and plans of the Petroleum Fund and the Petroleum Investment Reserve, the Public Finance Bill can be said to promote the right of citizen's to information at least in the oil sector. This enhances citizen participation in oil management which in turn promotes transparency and accountability in the oil sector.

Table 4: Transparency provisions in Environment and Natural Resource Laws and Bills

ATI Issue (Does the law have a provision that provides...)	Legislation			
	Law 1	Law 2	Law 3	Law 4
Government duty to collect information	Yes	Yes	Yes	Yes
Government duty to keep records (e.g., registers)	Yes	Yes	Yes	Yes
Government duty to make information available to public	Yes	Yes	Yes	Yes
Company obligation to keep records	Yes	No	Yes	Yes
Company obligation to make information public	No	No	No	No
Confidentiality clauses	Yes	Yes	Yes	No
Established a crime and sanction for releasing confidential information	No	No	Yes	No
Established a crime and sanction for NOT releasing information that is public	No*	No	No	No

Notes

*It is not a crime to withhold public information per se but it is a crime not to avail the authority (NEMA) records or to avail false records.

*Company is understood to mean a non-government entity.

Key

Law I – National Environment Management Act Cap. 153

⁹⁴ Clause 69 (1) and (2), Public Finance Bill, 2012.

Law 2 – National Forest and Tree Planting Act 2001

Law 3- Petroleum (Exploration, Development and Production) Bill, 2012

Law 4 - Mining Act 2003

C. Institutional Infrastructure

An institutional assessment was conducted to allow us to collect data on the internal systems that need to be in place for the public agencies to be able to meet their obligations in terms of the ATI law and any sectoral provisions that provide that the public should have access to environmental information. We assessed 5 institutions linked to Uganda's natural resources. The institutions assessed include NEMA (Environment Sector), NFA (Forestry sector), UWA (Oil Sector), Wetlands management Department (Environment), Department of Geological survey and mines (mineral sector)

We assessed how the institutions assist persons who make requests under the ATI law and sectoral laws, their record management system, internal mechanisms – including tracking of requests, training of personnel on the law. The human and financial resources that are utilized for administration of the ATI law and sectoral law, the mechanism in the agencies that track the agencies performance to yearly plans as well as the ability of the organization to address complaints and its responsiveness in general to complaints from the public was also assessed.

The assessment involved reviewing the websites of the relevant institutions as well as documents from the institutions selected. In addition, questionnaires were also administered during the assessment for institutions as well as discussions. The researchers also sought interviews with key senior officials in the selected institutions. Requests for information were made in writing to the institution. During analysis, the researchers looked for consistencies in terms of whether manuals were available at the institution and what complaint procedures were followed. This was done to ascertain the strengths and weakness of the institutions so as to rate the institution by contrasting the agencies. The assessment also presented an insight as to why the institution has not effectively implemented the ATI law yet this law has been in existence for the past 10 years.

National Environment Management Authority (NEMA)

Information on how to make a request

The process of submitting requests differs and depends on the type of the requester who visits the institution. While one requestor can be sent to the librarian, the other can be told to write a letter to the Executive Director. It basically depends on the type of request made and for what information. Although there is no manual available, the requester is informed of the procedure once at the NEMA offices. The NEMA website does not indicate the focal person to contact at the organisation when requesting for information. The list of the categories of information held is available on their website. Also available is a list of the categories of information which cannot be disclosed to the public.

Records management

The institution uses a filing system and an environmental thesaurus to catalogue and classify records. The records are stored manually, however the institution does not have a records manager.

Internal mechanisms

When seeking information from the institution, the requester is required to write a letter to the Executive Director who then instructs a relevant officer to handle the request.

The organisation maintains a log of requests; however, requests are not recorded in detail and are recorded manually. Letters received requesting for the information are stamped to acknowledge receipt. In some instances, there are no responses to requests sent via email to the general email address of NEMA. One of the challenges noted in requesting for information is that there is no specified timeframe available for internal routing of the requests made.

NEMA does not have a policy of waiving request fees from requestors who are unemployed or can't afford to pay the request fee. This is because NEMA does not charge request fees. An individual who is accessing particular information will reproduce that information at their expense.

NEMA shares information to the public through their notice board, and publishing information in the local media. The organisation also has environmental awareness programs.

Resources

Financial resources have been allocated to the implementation of the ATI Act and sectoral law. 5 members of staff have been designated for this role and 11 members of staff were trained to facilitate access to information at NEMA. These members of staff received training in information retrieval, dissemination, processing and storage for better use. They are accountable to the Director Policy, Planning and Information as well as to the Executive Director of NEMA. Frontline staff is aware of the ATI Act and have been trained. However, the institution does not have adequate incentives in place to ensure that staff comply with the Act and there are no sanctions for non-compliance.

Evaluation capabilities

NEMA has a specific policy that guides evaluation of its performance which is a public document. The Director Policy, Planning and Information is tasked with ensuring that the agency meets its goals as set out in the plan. Performance audit reports of the organisation are available

Complaint and response capabilities

NEMA has a mechanism that is used to address complaints about non-performance of the agency from external stakeholders. This can be done through use of web blogs and a telephone hotline to answer environmental queries and complaints from the public. And although NEMA has no policy on this, the officials at the institution explained how to lodge a complaint and how this complaint will be investigated. The system of receiving complaints through the hotline is managed by a team to avoid blocking complaints, the blogs are forwarded to the concerned officer for action, copying the supervisor and the Executive Director. Appeals have been received but NEMA could not furnish us with the details of this.

The decision of an agency against which there has not been an appropriate response to a complaint can be challenged through the legal system or courts of law. The challenge is that staff have not been trained on how to respond to complaints and NEMA cannot guarantee non-retaliation against the complainant.

Environmental Agency NEMA	Information officer	Budget	Records Management Policies	Fees	Complaint system	Comprehensive website	Information on How to Make a Request (Manuals)	Internal Mechanisms
Rating	Good	Good	Good	Good	Good	Good	Good	Good

Uganda Wildlife Authority (UWA)

Efforts were made to secure appointments with officials from UWA but these did not come to fruition. The researchers made several visits to UWA, seeking an appointment for an interview to get the requested information. The researchers were then told to write to the Executive Director of UWA including the questionnaire of the information requested for, who would then delegate and appropriate officer to respond to the questions. Although the researchers followed the instructions to the letter, they never received any response. Several follow ups were made on this to no avail.

The UWA website basically contains information relating to Wildlife and National Parks.

Environmental Agency UWA	Information officer	Budget	Records Management Policies	Fees	Complaint system	Comprehensive website	Information on How to Make a Request (Manuals)	Internal Mechanisms
Rating	Poor	Poor	Poor		Poor	Good	Poor	Poor

Wetlands Management Department (WMD)

Procedure on accessing Information

The Department does not have a manual on procedures to obtain access. No details were provided for the focal person. No details on the categories of accessible information are available.

Records Management

There is no efficient system for the storage and organisation of records. Archived information is stored on CDs, and the institution has a records manager tasked with stocking, maintaining relevant books/materials in the documentation center, disseminating technical reports and awareness materials, and preparing an annual inventory of documents in the center among others.

Internal Mechanisms

Requestors fill a log sheet when making requests. This log sheet is filed for future reference. The Directorate compiles a list of requests made in monthly, quarterly and annual reports which are handled by the documentation officer. This is done using a computer.

The organisation does not avail information on any appeals made to the organisation. Not all frontline staff know about the ATI law. When a request for information is made to the organisation, it is done through the office of the Commissioner then referred to the relevant officer to take appropriate action. In some instances, requesters for information are followed up on email.

This is no procedure for assisting disadvantaged requestors. The organisation avails information to the public through participating in national events that attract public notice, through radio and television programs and publishing information in the newspapers. The department does not charge fees for any information availed to the public.

Resources

No financial resources have been allocated to the implementation of the ATI or sectoral law in the institution. None of the staff have received any training to facilitate access to information. The organisation has a structure in place to monitor provision of information to the public, and this unit is accountable to the Commissioner Wetlands Management Department through the Assessment, Information and Management Division. There are no adequate incentives in place to ensure that staff comply with the ATI law or sanctions for non-compliance.

Evaluation Capabilities

The department has a specific policy that guides evaluation of its performance e.g. strategic plan; which is available to the public. The department engages external stakeholders during the evaluation of its performance, for instance, during the quarterly Wetlands Advisory Group meetings and at the Ministerial level through the Annual Sector Performance review meetings.

Complaint and Response Capabilities

The organisation does not have a policy on how to address complaints about non-performance of the department. Any complaints made are addressed to the commissioner Wetlands Management Department who refers the issue to the responsible officers.

Environmental Agency WMD	Information officer	Budget	Records Management Policies	Fees	Complaint system	Comprehensive website	Information on How to Make a Request (Manuals)	Internal Mechanisms
Rating	Poor	Poor	Good	Good	Poor	Poor	Poor	Poor

National Forestry Authority (NFA)

Procedure on accessing Information

No manual available and no details are provided for the focal person on the website. There is a list of all categories of records held by the institution, however, this list does not identify those records which can be disclosed and those which cannot. The list is not disaggregated to show categories of records held which are available on request.

Records Management

Records management policies not easily available at the organisation however, NFA uses a subject classification system to guide the indexing and filing of records. The NFA has an archives section of the records management system and the records are stored according to categories like forest management, administration etc.

NFA has a records manager whose role is to build an effective records management system that functions appropriately to facilitate decision making

Internal Mechanisms

NFA asserts that it is in the process of developing guidelines on how one can access information from them. They do not have a system for recording number of requests made nor do they have any information on this to provide to the public. Any follow up to requests made is done manually.

In a questionnaire submitted to the NFA, the response was that their frontline staffs are aware about the ATI law and know how to deal with requests. However, during the citizen requests, the NGO representative and the student reported that the frontline staff are not aware of the law but have their own internal procedures that should be followed before one is availed the information. Still, even when they followed the procedures, they were unable to access the information. The NFA shares information to members of the Public through newspapers and radio/TV shows.

Resources

There are no financial resources allocated to the implementation of the ATI Act or sectoral law. The institution has a structure dedicated established to monitor provision of information to the public. This unit reports to the Public relations manager.

Evaluation Capabilities

External checks to the NFA are done by the Auditor general

Complaint and Response Capabilities

The organisation does not have a policy on how to address complaints about non -performance of the agency from external stakeholders.

Case study: The Experience of an ordinary citizen at the National Forestry Authority

On the 18th of May 2012, a member of the public went to the National Forestry Authority (NFA) a government institution in Uganda- established for the sustainable management of the government's Central Forest Reserves (CFRs) and promotion and development of private forestry, to request for information as a member of the public. He sought for the information under the Access to Information Act. This Act reiterates Article 41 (1) of the Constitution of the Republic of Uganda which stipulates that

- (1) Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.

The gentleman went to NFA seeking information relating to licensing in forests in Uganda. The requestor did not have prior knowledge of the research being conducted. He was able to communicate in English, which is the main language used in government institutions. At the institution's gate, security asked him to identify himself, register in the visitors book and to leave behind his identify card before proceeding to the front office. He was given a visitors card and he then proceeded to the reception where he asked if he could access information on licensing in forest reserves. The receptionist referred him to an officer working at the NFA, who later referred him to another officer in another office. He was asked where he was from and why he wanted that particular information. The NFA official then called his colleague and they interrogated him. They alleged that he was an impostor and threatened to arrest him demanding to know why he needed the information. They accused him of being among the different people who grab land in the villages. At this point, they called in security. The requestor informed them that he had been sent by Greenwatch and was seeking the information on behalf of the organization. They asked him for a contact person who could verify whether the information he had provided them was correct. By this time they had already confiscated his mobile phone, Identification card and personal belongings that he had on him. He was asked to provide a number for his next of kin to inform them that he had been arrested.

He was then bundled on a pickup truck together with four gentlemen from the NFA and security personnel and brought to Green watch offices. At Greenwatch offices, the gentlemen met with a research assistant who was informed of their intention to arrest the requestor unless it was confirmed that he was known to the Greenwatch staff. The NFA officials then tasked the research assistant to tell them about Greenwatch and why the information was needed by the organization. She informed them that Greenwatch was carrying out research on access to information and the requestor had visited the NFA to find out if an ordinary citizen would be able to access information from that organisation. She gave the officials brochures of the organization. Once she had confirmed that what the requestor was seeking was requested for by Greenwatch, she requested the gentlemen to return the items that were confiscated from him including his mobile telephone and identity card.

The NFA officials stated that they could not give "such" a member of the public that information and would only provide him with information about planting trees or would assist him if he went to their offices to report incidences about people engaging in deforestation. They added that at NFA, particular procedures are followed and that information which could be misused by the public is not given out. The research assistant was told that if she needed the information, she would be referred to the appropriate designated officer to request for the information. They further added that the Public Relations Officer of NFA has to authorize for the release of such information.

This statement however, contradicted the experience of the research assistant who had previously been to the NFA and was denied the information. After the research assistant confirmed that she knew him, the requestor's property that had been confiscated was returned and he was freed. The harrowing experience of the requestor is an illustration of what some members of the public go through while accessing information in the hands of government institutions.

Environmental Agency NFA	Information officer	Budget	Records Management Policies	Fees	Complaint system	Comprehensive website	Information on How to Make a Request (Manuals)	Internal Mechanisms
Rating	Poor	Poor	Poor	Good	Poor	Good	Poor	Poor

Department of Geological Survey and mines

Information on how to make a request

There are no details provided for the focal person but the Department does have a list of all categories of records held by the institution, which also identifies those records which can be disclosed and those which cannot. However, the list does not indicate records which cannot be disclosed to the public.

Records Management

The organisation uses a key word file classification system, and electronic record management system and unpublished document information system for the storage and organisation of records. Archived information is stored in a closed file.

The organisation has an assistant records officer who is charged with maintaining records.

Internal Mechanisms

There are no written guidelines on how one can access information at the organisation. Although the requests made to the organisation are recorded, the responses to these requests are not recorded as they are usually detailed. The organisation has a visitor's book where members of the public who visit the organisation register. The requests are compiled and reported on a monthly basis where during meetings at the organisation. Basically, visitor's books and monthly reports are the mode of compiling the requests received. The visitor's book lists the requestors details including the purpose of the visit, particulars of the requestor, comments made and the information asked for.

The frontline staff at the Department of Geological survey and mines are not aware of the ATI law. However, they have been instructed on how to deal with requests made to the organisation. The responsible officials in each department handle their respective requests for information.

Requests made to the organisation are handled on a first come first serve basis with prioritisation given to the most urgent requests. Requests for information are not acknowledged when received, however, once a response to the request is made, this is written down. This can be a denial if the information is not available, or sending the appropriate information if it is available. Follow up is made on the requests through the use of emails and phone calls. Administrative requests are generally handled within two days, however, the timeframe for technical requests is 14 days.

Information from the organisation is shared through flyers, radio talks, conferences and during the trainings that the Department conducts.

The Department only charges production costs for information requests made, i.e. photocopying fees.

Resources

Financial resources have not been allocated to the implementation of the ATI Act or sectoral law in the Department. However, staff has been trained to facilitate access to information- about 10 members of staff have been trained on this. Most of those who have been trained are geologists, record staff, documentation officers, cartographers and mining staff. The Department has a unit established to monitor provision of information to the public. This unit is accountable to the commissioner. The challenge is that the Department does not have adequate incentives in place to ensure that staff comply with the Act and sanctions for non-compliance.

Environmental Agency Department of Geological survey and mines	Information officer	Budget	Records Management Policies	Fees	Complaint system	Comprehensive website	Information on How to Make a Request (Manuals)	Internal Mechanisms
Rating	Good	Good	Excellent	Good	Good	Excellent	Poor	Good

The institutional Assessment revealed that not all government agencies have policies in place for ATI. With regard to the NFA, the researchers were informed that the NFA is in the process of developing guidelines to facilitate access to information at the organisation which are still in draft form. Each agency has its own internal procedure that should be used by a member of the public to access information. This usually entails writing a letter to the Executive Director of the agency and following up on the written request. The list of the categories of information held by most of the institutions is not always categorised into that which is available routinely, that for which a request is a requirement and information that cannot be disclosed to the public. The storage of records in the institutions is done manually, which is a challenge as certain requests or even records can be misplaced.

What is consistent in the institutions assessed is that none of them charge a fee for accessing the information. Rather, a requestor would be required to pay for photocopying of the information. In addition, none of the institutions has a manual on procedures to be followed when requesting for information. Each organisation has its own internal procedures that should be followed. But this does not guarantee that one will be availed with the information sought.

Not much information is available on the appeals that have been made to the institutions or even complaints that have been received. There is also no guarantee whatsoever that the person making the complaint will not be victimised.

As the lead agency charged with coordinating environmental institutions in Uganda, NEMA has made efforts to train its staff in the ATI and sectoral laws. The creation of a NEMA hotline should be commended. The challenge is that not many members of the public are aware about the NEMA hotline for making complaints. While the Department of Geological survey and mines has not undertaken training of its staff on the ATI laws, once a requestor follows the internal procedures at the department; write a letter detailing the information requested for, the Department avails this information. In the citizens requests, the requests made to the Department of geological survey and mines yielded results as the information was provided. NFA and UWA have not been receptive to requests for information.

The information in the libraries of the government institutions such as NEMA is not updated. In NEMA, one cannot see an official when requesting for information without first being referred to the librarian. In addition, before any member of the public proceeds into any of the institutions, one needs to first register and receive a visitor's pass.

D. Proactive Disclosure

Uganda's literacy rate as indicated by the Ministry of Education and Sports in 2005 was 68% with 76% males and 61% females. At 68%, Uganda has the lowest literacy rate in East Africa.

Information released pro-actively by Government includes information deposited at government depositories or public libraries and that posted on websites for government agencies and statutory bodies, Ministries. Most government departments have websites and lately, social media platforms like Facebook and Twitter have been utilised as a medium through which information is made available to the public. Specifically, institutions such as NFA, NEMA, PEPD, NPA, Ministry of Finance, Planning and Economic Development, Ministry of Energy and UWA now avail some information to the public through Facebook. The information posted on government websites may include but is not limited to information about the respective government agencies and their operations; Ministerial Policies, recruitment brochures, bulletins directives and newsletters; Strategic action plans, annual reports, sector performance reports, budget performance reports, audits, census reports etc.

Information is also released in the gazette, however, for this particular type of information, this is a requirement by law.

Most of the information that is made public is released in English and also in written form. NEMA in particular releases most of the information relating to environmental issues.

Certain information is placed at specific information at designated depositories. These depositories include public libraries, institutional and organisational libraries. This information is freely accessible by

any member of the public as it is proactively released. It includes Environmental Impact Assessments, annual and performance reports among others. However, costs for copying may be paid for. This information is in English and is mainly technical.

Pro-Active Release Template: Environment

Means of sharing information

	Gazette	Register	Website	News paper	Gov't report in library	Other	Comments
Pro-active release template: Environment.							
Govt agency staff, departments, objectives, functions	Y	Y	Y	Y	Y		Under the Government Public Standing Orders, there is a provision for the gazettlement of all public servants and their various roles
Laws, regulations and bills	Y	Y	Y	?	Y		A number of laws are in place.
Policies, strategic plans, action plans	Y	Y	Y	Y	Y		Sector Strategic Investment Plans and Client Charter available on website.
EIAs and mitigation plans	N	Y	Y	Y	Y		EIA's are deposited at designated depositories and summaries published in newspapers for the public to comment.
Monitoring results and penalties levied, inspection reports, PRTR	N	Y	Y	Y	Y		A summary of findings of monitoring and inspection results are published in news papers and detailed reports available upon request.
SOER, annual reports, sector performance reports	N	Y	Y	Y	Y		Sector performance and SOE reports are produced annually and available both in hard and soft copy. At the time of publication, news about their availability is reported in media
Performance audits of government offices	N	Y	Y	Y	Y		Auditor general conducts audits on all government agencies.
Financial audits of government offices	N	Y	Y	Y	Y		The office of the Auditor General releases Audit Reports on Central Government Ministries, Departments and Agencies.
International Agreements signed and ratified	?	?	Y	Y	Y		Treaties which the country has signed and ratified are mentioned on websites and in government related reports.
Names of accredited EIA consultants and selection criteria	Y	Y	N	N	?		Selection criteria for EIA practitioners available at NEMA registry, and names of consultants gazetted once the Committee is

							satisfied with credentials.
Environmental standards and procedures for establishing them	Y	Y	Y	?	Y		Environmental standards usually gazetted; not clear if procedures for their establishment are gazetted.
Citizen comments on EIAs and other matters	N	?	N	N	?		The cost of publishing comments on EIAs in newspapers is made by the concerned party submitting the comments.
Permits issued to companies (EIAs, pollution, sand mining permits, etc)	N	Y	N	Y	Y		Issued permits are usually published in news papers; public views are sought on activity for which permit is applied in newspapers.
Revenues from 2 major payment categories (e.g., fines, permits)	N	?	N	N	?		

Scale

Y stands for Yes

N stands for No

? stands for unclear/uncertain.

Pro active release template for Forestry**Means of Sharing Information**

	Gazette	Register	Website	News paper	Govt report in library	Other	Comments
Natural Resource Pro-Active Release Template (Forests)							
Govt agency staff, departments, objectives, functions	Y	Y	Y	Y	Y		Under the Government Public Standing Orders, there is a provision for the gazettlement of all public servants and their various roles.
Laws, regulations and bills	Y	Y	Y	?	Y		Laws available
Policies, strategic plans, action plans	Y	Y	Y	Y	Y		
Reserves and stocks of the natural resource	N	Y	Y	Y	Y		
Production of the natural resource - raw and processed	N	Y	Y	Y	Y		Volume of timber sales available on website. However, information not regularly updated.
Concession allocation process and decision criteria	N	Y	Y	N	N		Bids and tenders for concessions published in newspapers are done in accordance with the Public Procurement and Disposal Act of 2003, available on website.
Licenses (exploration and production licenses only)	N	?	N	?	?		Concession guidelines and incentives available on website, no information on process of allocation.

Concession Agreements	N	N	N	N	N		
Revenues from 2 major payment categories (e.g., income tax and royalties)	N	?	Y	?	?		Revenue collected from sale and harvesting of timber and non timber products available on NFA website. This however is not updated regularly, no royalties.
Map and coordinates of blocks and concession areas	N	Y	Y	?	?		Maps of coordinates of concession areas available in Registry and at Department of mapping and Surveys.
EIAAs and mitigation plans	N	Y	N	Y	Y		EIAAs available at designated depositories, costs may be paid for photocopying.
Government monitoring/inspection results and penalties levied	N	?	Y	Y	?		Findings of inspection works including land encroached upon in CFRs; developments undertaken thereon are available on website. Volume of confiscated illegal timber is auctioned and date and place of auction printed in newspapers and available at registry
Performance audits of government offices	N	Y	Y	Y	Y		Environmental audit reports to assess the performance of the key players in forestry management are conducted and the information made available.
Financial audits of government offices	N	Y	Y	?	Y		Environment audit reports on forest activities are produced and posted on websites. NFA also releases information on its business plans.
Impacts on local communities (displaced, relocated, compensation)	N	?	N	?	?		

Note:

N means No

Y means Yes

? means Uncertain/Unclear.

Natural Resource Pro-Active Release Template (Minerals)**Means of Sharing Information**

	Gazette	register	website	News paper	Gov't report in library	Other	Comments
Natural Resource Pro-Active Release Template (Minerals)							
Govt agency staff, departments, objectives, functions	Y	Y	Y	Y	Y		Under the Government Public Standing Orders, there is a provision for the gazettlement of all public servants and their various roles.
Laws, regulations and bills	Y	Y	Y	?	Y		

Policies, strategic plans, action plans	N	Y	Y	?	Y		
Reserves and stocks of the natural resource	N	Y	Y	?	Y		Statistics of mineral deposits are available on the website.
Production of the natural resource - raw and processed	N	Y	Y	?	Y		
Concession allocation process and decision criteria	Y	N	N	N	N		
Licenses (exploration and production licenses only)	Y	Y	Y	Y	Y		Mineral licenses have to be gazetted, this is mandatory. General information is available on the website on licensing. and concession procedures
Concession Agreements	N	N	N	N	N		
Revenues from 2 major payment categories (e.g., income tax and royalties)	N	?	N	?	?		
Map and coordinates of blocks and concessions areas	N	Y	Y	?	Y		
EIA and mitigation plans	N	Y	N	Y	Y		EIA available at the different depositories.
Government monitoring/inspection results and penalties levied	N	N	N	N	N		
Performance audits of government offices	N	Y	Y	?	Y		These are released in the Sector Performance reports that are published by the Ministry of Energy. and Mineral Development
Financial audits of government offices	N	Y	Y	?	Y		Financial audits have been conducted and released with regard to mineral development procurements.
Impacts on local communities (displaced, relocated, compensation)	N	Y	N	Y	Y		

Proactive release of Information – Oil

Means of Sharing Information

	Gazette	Register	Website	News paper	Gov't report in Library	Other	Comments
Natural Resource Pro-Active Release Template (Oil)							
Govt agency staff, departments, objectives, functions	Y	Y	Y	Y	Y		
Laws, regulations and bills	Y	Y	Y	Y	Y		The 1985 Petroleum (Exploration & Production) Act is still being used. New oil bills were drafted, gazetted and yet to be tabled

							before Parliament.
Policies, strategic plans, action plans	Y	Y	Y	Y	Y		National Oil and Gas Policy, 2008 and a communication strategy on oil and gas in place. A monitoring plan for oil and gas activities has also been developed recently, all are available on website.
Reserves and stocks of the natural resource	N	?	Y	N	N		Some information is released on the website but this information is not always up to date
Production of the natural resource - raw and processed	N	?	?	N	?		
Concession allocation process and decision criteria	N	N	N	N	N		The process and criterion upon which decisions are made is not always revealed to the public.
Licenses (exploration and production licenses only)	N	?	Y	N	Y		Status of licences available on websites but not the actual licences.
Concession agreements	N	N	N	N	N		
Revenues from 2 major payment categories (e.g. income tax and royalties)	N	?	N	N	N		
Map and coordinates of blocks and concession areas	N	Y	Y	Y	Y		The maps are available on the websites and also in the government libraries
EIAs and mitigation plans	N	?	Y	Y	Y		EIAs are available at the various repositories however; the documents are only available in the English language.
Government monitoring/inspection results and penalties levied	N	N	N	Y	?	TV	There has been some TV and newspaper coverage on findings of NEMA inspection works on Tullow Oil's improper waste management practices.
Performance audits of government offices	N	N	N	N	?		
Financial audits of government offices	N	?	N	N	?		
Impacts on local communities (displaced, relocated, compensation)	N	N	Y	Y	Y		Some information is available on website.

E. Practice

a) Procedures for requesting for information

Although the procedures for requesting for information are documented both in the ATI law and in the various sectoral laws, the research revealed that the procedures at each institution varied. The process the researchers were told to follow was neither in the ATI law nor even in the various sectoral laws. Each organisation or government institution has its own internal procedures that it follows. It is pertinent to note that even when the researchers followed the internal procedures that they were required to follow at

some of the government agencies, they did not always get the information requested for. Different researchers got different responses for various reasons. \

Some of the institutions seem to be consistent in the procedure that they require a member of the public to follow when requesting for the information. Although there is no structured approach, most of the institutions required the requestor to present a form of identification (an identity card) and also to write a letter requesting for the information. After writing the letter, the requester was required to follow up on this. What seemed to be consistent in the organisations is the requirement that the individual requesting for the information present the request in writing and also write a letter to the head of the institution requesting for the information to be availed to him or her.

Four categories of requestors were used in this study; a student, a poor person, a member of the NGO and journalists. The said requestors asked for particular information at the various institutions, for instance, at the institutions linked to the oil, minerals and forestry sector, requests were made for a map illustrating the areas that were licensed, a copy of the concession agreements, government revenue collected and the number of people displaced. At the institutions linked to the environment sector, the requestors sought information on facility inspection reports, inspector facility monitoring reports, government enforcement notice and law enforcement statistics. Each of the various requestors got different information basing on a number of factors. For instance, the student requestor was granted information in most of the institutions and received a far better reception than did the requestor from the NGO. In this instance the student was female and the NGO representative was male. The poor person was male while both male and female journalists were used.

b) Results of requesting under the ATI law

The student, the poor person and the NGO rep requested information under the ATI law. This meant that they followed the procedure prescribed in the ATI law and used the forms in the ATI regulations while seeking the information. However, even if they presented the forms to the respective government institutions, they were still required to write letters stating exactly what they wanted and why they required that particular information. In most instances, it meant going to the institution more than 3 times. This did not guarantee that a requestor would get the information he/she sought.

The student requestor enquired for information under the ATI Act. While requesting information at the NFA, she was advised to attach the access to information forms to an official letter to the Executive Director of the organisation to request for the information. The letter was to include the type of the information she wanted to access and why she required this information. She was informed that using the access to information regulations alone is not enough, the institutional procedure should be followed. She was also advised to get a research licence. Although she attached the required formal letter to the access to information forms and visited the NFA three times, she was still denied access to the information.

The NGO requestor also used the ATI Act to request for information. He was also informed that in addition to using the request forms under the ATI Act, he was also required to write a formal letter requesting for the information.

With respect to the requestor who represented a poor person, the requestor was an individual who did not have prior knowledge of the research. He was knowledgeable of the English language which is the main language of communication in government institutions. He first visited NEMA where he was required to identify himself and state why exactly he was requesting for that particular type of information. While there, the receptionist advised him to contact the District Environment Office of his home district who would therefore avail him with the information he needed. He was further informed that since NEMA had officers in the various districts to help people there rather than have the people come to NEMA offices in Kampala. His next visit was to the National Forestry Authority Offices. At the gate, security asked him to identify himself and he was required to leave his identify card behind before proceeding to the reception. At the reception, he requested to see the person in charge of information. However, on reaching the office, the gentleman at NFA demanded to know why he sought particular information about licensing in forest reserves and threatened to arrest him. His identify card was confiscated and a security officer was called to have him arrested. His mobile telephone was confiscated and he was threatened and accused of being a thief and a spy. The requester was perturbed and revealed that he was from Greenwatch and was seeking for information on behalf of the organisation. He was then bundled on a pick up truck together with four gentlemen from the NFA and security personnel and brought to the Greenwatch offices where the research assistant had to vouch for him to prevent the officials from arresting him and urged them to return to him the items they had confiscated off him including his mobile telephone and identity card.

c) Requesting under the various sectoral laws

Journalists visited various institutions and requested information under the relevant sectoral laws. The institutions visited by the journalists were the same institutions that were visited by the previous requestors.

Information on forestry

This information was requested under the National Forestry and Tree Planting Act- section 91. The journalist visited the National Forestry Authority 3 times but on all three visits did not access information that he requested. On his first visit, he made a verbal request but was informed that all requests, even those made under the Forestry law should be put in writing. On his second visit, he made his request in writing and was told to wait for a phone call on how he should proceed. However, he was not called. The journalist went back to NFA offices the following week and was informed that the person he was requesting to see was not in office. Another journalist visited the UWA to request for information on forests located in protected areas that are under the management of UWA. He was more successful on his first visit as he met with the Public Relations Officer who provided him with information and then advised him to go to the NFA for further information if he so wished for it.

Information on minerals

Requests for information regarding minerals were made under the Mining Act- section 95. Information for minerals included a map of licenses/concessions, a copy of a concession agreement, government revenue collected and the number of people displaced. Verbal requests were often rejected and requestors were advised to put their requests in writing. Appointments made verbally were not always adhered to and the journalists who made such appointments were disappointed on reaching the various institutions.

One journalist visited the Ministry of Energy and Mineral Development after making appointments with the PRO of that Ministry. However on reaching their offices, the PRO was too busy to provide him with the required information. He was later told to refer to the annual reports produced by the ministry during the previous year. He was also referred to the department of Geological survey and mines for further information. The officials at the Ministry of Energy were persistent in stating that they did not have information and kept referring the requestors to other institutions. On reaching those institutions, the requestors would be redirected to the Ministry of Energy.

At the ministry of Energy and Mineral Development, one journalist was given a hard copy of the map of the licensed areas but was informed that to be able to access the other information, she needed to write a letter to the Permanent Secretary Ministry of Energy and Mineral Development.

At the department of geological survey and mines, a journalist was told that to access the information he requested, he needed to pay a printing cost of one hundred thousand shillings 100,000/=. Alternatively, he was told that he could download the maps of the licensed areas from the website of the department.

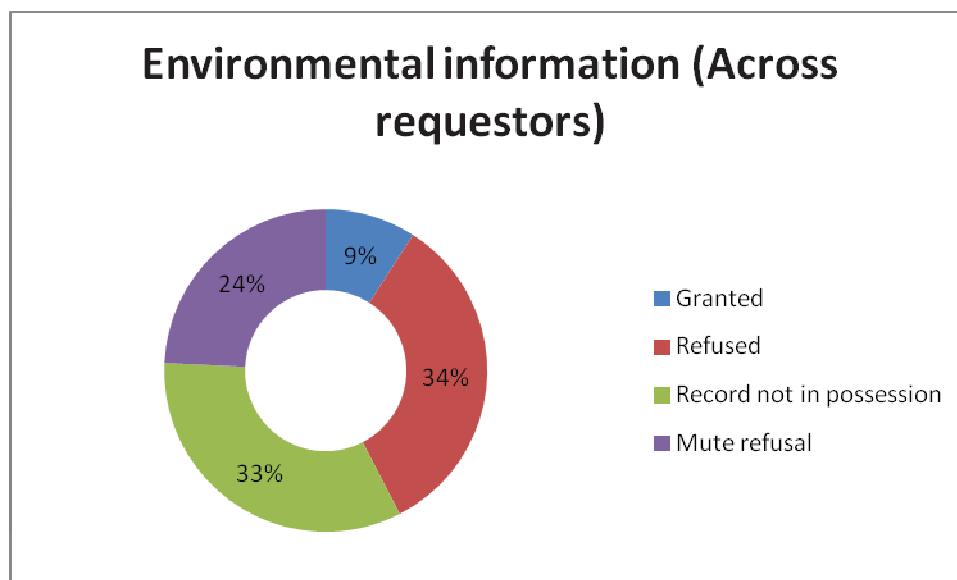
Environmental information

Certain requests that were made in writing were granted. For instance, one journalist requested for information on an inspector facility monitoring report. The journalist was specific in the request he made and asked for the environmental information specifically relating to Mukwano industries. He was granted an inspection report on Mukwano oil and soap factory. The release of the information to the journalist seems to infer that in some instances when one requests for specific information, this information can be granted to the individual.

General results of the requests made

Chart 1

Access to Environmental information by NGO rep, student and Journalist requestors. The Information was sought from the Ministry of Energy, NEMA and the Wetlands Management Department.



Scale:

Mute refusal: means that the researcher did not get any reply at all, he/she was ignored.

Refused: means that the researcher was denied the information

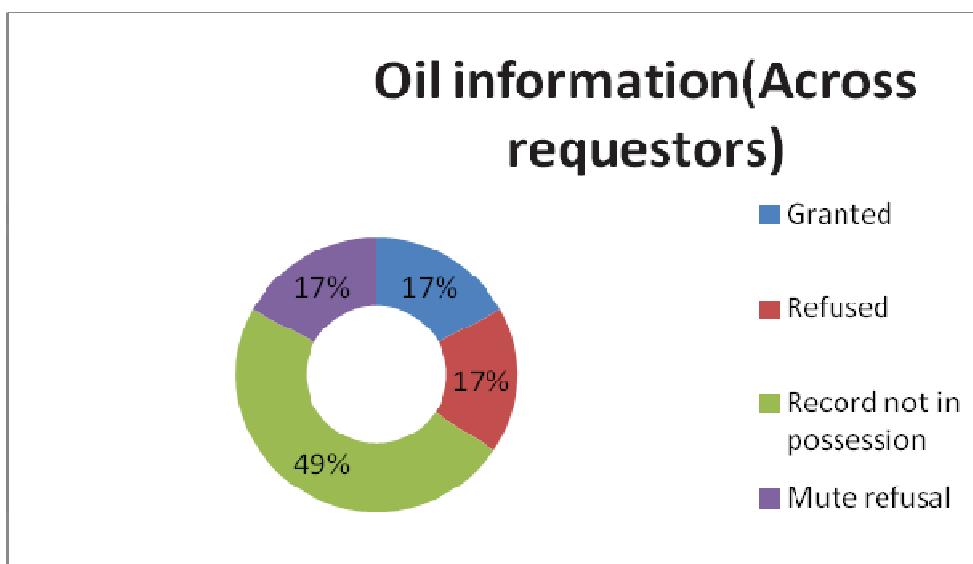
Granted: the researcher was given the information he/she was requesting for

Record not in possession or under control of agency: means that the officials at the institution stated they did not have the information requested for.

Chart 2

Access to information on oil/Petroleum by NGO rep, Student and journalist.

Information was sought from Ministry of Finance, Planning and Economic Development, Petroleum Exploration and Production Department (PEPD), Uganda Wildlife Authority (UWA).



Scale:

Mute refusal: means that the researcher did not get any reply at all, he/she was ignored.

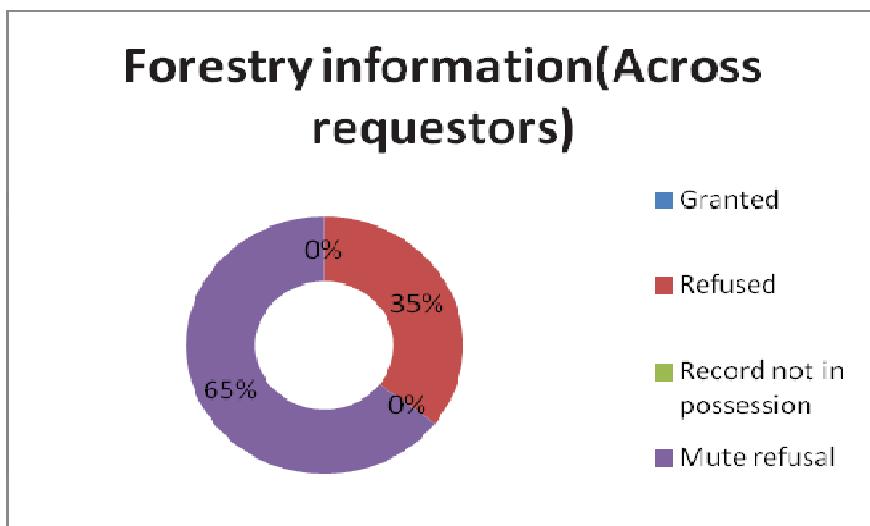
Refused: means that the researcher was denied the information

Granted: the researcher was given the information he/she was requesting for

Record not in possession or under control of agency: means that the officials at the institution stated they did not have the information requested for.

Chart 3:**Access to information on forest**

(Information was sought from National Forestry Authority, Uganda Wildlife Authority).

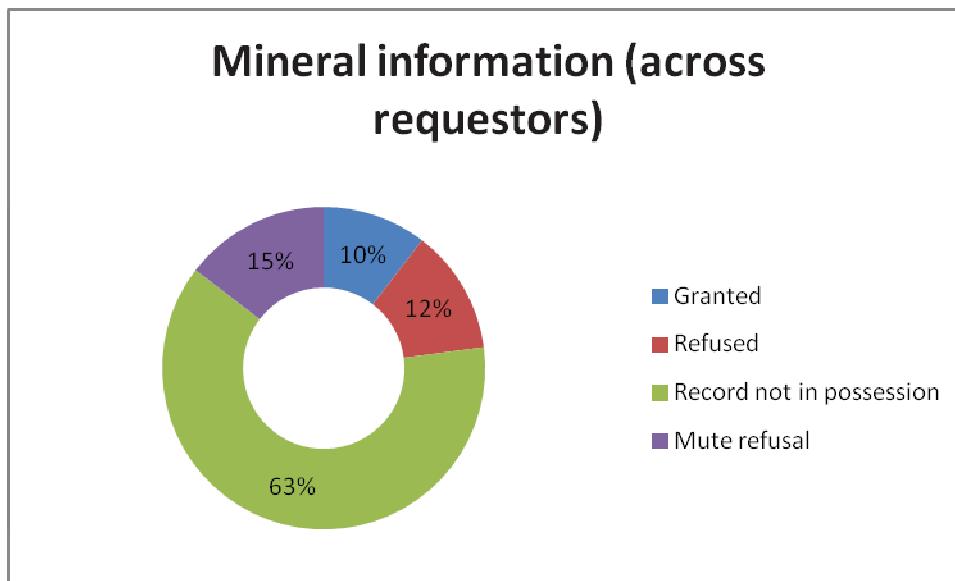


Scale:

Granted: means that the researcher did not get any reply at all, he/she was ignored.*Refused:* means that the researcher was denied the information*Granted:* the researcher was given the information he/she was requesting for*Record not in possession or under control of agency:* means that the officials at the institution stated they did not have the information requested for.

Chart 4:**Access to information on Minerals.**

Information was sought from Ministry of Energy and Mineral Development, Department of Geological Survey and Mines, Department of Energy Resources, National Planning Authority.

**Scale:**

Mute refusal: means that the researcher did not get any reply at all, he/she was ignored.

Refused: means that the researcher was denied the information

Granted: the researcher was given the information he/she was requesting for

Record not in possession or under control of agency: means that the officials at the institution stated they did not have the information requested for.

The category of information that was availed and that which was denied is contained in the annex.

The laws Vs the procedure at the institutions

Regardless of the provisions in either the sectoral or the ATI law, there is no particular formula in as far as granting access to information in these agencies is concerned. The problem seems to be with the system in the various institutions but not really whether an institution wants to release the information or not. There is a complexity of issues involved and the criteria used seem subjective at best. It depends on the approach that the requester uses, where the requester is based or from, who the requester is for instance the student requester was able to acquire the information because she explained that she required the information for purely academic purposes and identified herself using a student identification card. The NGO requester, on the other hand was told that, “*NGO’s are always looking for ways to agitate the public and the government*”. He did not succeed in getting most of the information he sought apart from information at the Department of Geological Survey and Mines. This also implies that one needs to take

into account the disposition of the person in charge of the information and their perceptions as well as the approach used by the requester. Although, the NGO requester followed what was required of him to the later, i.e. wrote letters to the Executive Director, followed up on his requests and sought appointments, he was continuously denied access to any information that he sought.

Not all officials in the various institutions are aware of the information provisions in the sectoral law or even of the Access to information Act. Many officials felt threatened when the requestors made reference to the provisions in the ATI law. They felt that rather than making reference to the law, the requestor should have used the institutional procedure of making a written request to the Executive Directors or institutional heads.

The requesters revealed that the agency that performs worst is the NFA. The experience of the poor person seems to back this up. Requesters stated that right from the security at the main gate, the NFA officials were not willing to be helpful at all. They were hostile from the onset; they toss an individual up and down until you are forced to give up on your requests for the information. One researcher stated that sometimes, an individual in NFA will deliberately refer you to an officer who is not even responsible for information in that organisation for instance a human resource manager, who adamantly refuses to speak to you at all which was frustrating. Their procedures are inconsistent for instance, the student requestor was told to refer her request to the office of the human resource manager while the NGO requestor was on his third visit referred to the office of Executive Director. Still none of them availed any of the information at all.

The department of geological survey and mines performed well with regard to granting requests. The requesters noted that the officers at this department are very helpful and were willing to talk to them and even provide information like maps to the people who ask for them.

In addition, in institutions where no proper records are kept regarding formal requests for information, it presents a challenge when following up on any requests made. When the student requester visited the Ministry of Finance, she was advised to write a formal letter to the Permanent Secretary and attach this to the access to information forms that she had. However, when she made a follow up visit, she was informed that there was no record of the request she had made and was advised to re-submit her request for information.

What seems to have been consistent in all the institutions is the requirement for any requestor to present a form of identification when making the request for information. Although this did not guarantee that the information would be released, it allowed the requestor the opportunity to see an official in that particular institution. The requestors at times went to various lengths to try and access the information. First making a phone call to the public relations or information officer, sending requests via email, writing a formal request letter and finally going to the institution in person. One journalist followed all these steps and was granted the information at the Petroleum Exploration and Production Department by the information officer. The only information he was denied was the copy of the concession agreements on oil which he was told was confidential. He was also granted an opportunity to interview a senior official at the institution once he revealed that he was a journalist. The information that he got was received via email from the information officer. When requests were made in written format, the responses to these requests were, more often than not, in verbal form. This was consistent in the different institutions visited, more so

if the responses were to deny the requestor access to the information. No denial of information was made in writing.

Where a requestor used the ATI law to seek information, the requests were not granted. Information was granted basing on the institutional procedures followed. The information availed to the requestors was mainly maps of areas where the licenses were granted- at the Department of Geological survey and mines, Ministry of Energy, PEPD; a government enforcement notice from NEMA.

There is no evidence to show that denial on access to information is based or influenced by the gender or the requester. Two female journalists were denied information, however, the student who was female managed to get access to some of the information she requested. What seems to be clear is that various variables such as the personality of the requestor, the approach used when requesting for the information, as well as the mood of the official at the government institution seem to affect the outcome of whether one will be granted the information or not. In addition, the category of the requestor also affects the outcome. For instance, the NGO requestor who requested for the information under the ATI law and using the regulations was told that NGO's "*misuse the information*" they are given. In almost most of the institutions he visited, the response to his request was negative once he stated he was from civil society and asked for the information using existing regulations. It is therefore safe to assume that there is bias about civil society. The journalists on the other hand requested for the information under the various sectoral laws. They had mixed responses not because of the sectoral provisions under which they proceeded but because in some instances they changed their approaches while asking for the information.

F. REDRESS- OPPORTUNITIES FOR RECOURSE

I. Appeals under ATI Law and Sector Laws

The Access to Information Act provides for appeals at two levels. Under Section 16 (3) (c) of the Act a person may lodge an internal appeal or an application with the court against the refusal of the request and the procedure including the period for lodging an internal application or appeal as the case may be. The provision presupposes a fully developed internal appeal system but unfortunately the Act does not comprehensively provide for such a mechanism. For instance there is no constitution of an internal appellate body and the procedure such a body should follow. The only tenable appeal in the circumstances is therefore one before the courts since the Act is more elaborate on the procedure for lodging appeals before courts.

Part V of the Act is dedicated to complaints and appeals before the courts. Under this part, aggrieved persons may lodge complaints with the Chief Magistrate against decisions of information officers.⁹⁵ Additionally, a person aggrieved by the decision of the Chief Magistrate can appeal to the High Court against that decision.⁹⁶ So far only one appeal has been registered with the Chief Magistrates court for

⁹⁵ See Section 37, Access to Information Act.

⁹⁶ See Section 38, Access to Information Act

denial of information contained in the oil Production Sharing Agreements (PSAs) that the country entered into with various oil companies. In *Charles Mwanguhya Mpangi and Anor v. Attorney General*⁹⁷ the petitioners requested for information on PSAs from the permanent secretary in the Ministry of Energy which was denied on the basis that the sought information contained confidential commercial information. The petitioners approached the Chief Magistrates Court under the Act for a declaration that the PSAs were public documents. Unfortunately the petitioner's prayer was dismissed and the decision has been appealed to the High Court.

In the case of natural resources and the environment, the National Environment Act provides for internal appeals against decisions of the authority (NEMA).⁹⁸ Under the same Act, decisions of the agency may be appealed against in the High Court. It should be pointed out that the authority has a mandate over all activities with an impact on the environment including forestry, oil exploration and production and mining and therefore appeals may be brought in respect of decisions of the authority on each of these different activities. For some of the sectors where decisions especially those of administrative nature may be made by other organs other than the authority, separate appeal mechanisms are in place. Under the Mining Act for example, decisions of the Minister are subject to judicial review before the high court.⁹⁹

II. Summary of ATI Issues before the Courts

There have been several court cases on the right to information since 1997 when the very first case was filed.¹⁰⁰ The nature of these cases may be divided into two categories i.e. i) cases challenging the constitutionality of certain laws with provisions contrary to the right to information as espoused in the constitution and; ii) petitions for information disclosure. Most cases fall in the former category and over the years activists have challenged laws including the National Assembly (Powers and Privileges) Act, Evidence Act and the Constitutional Amendment Act of 2000 on the basis that they run counter to the spirit of the Constitution in Article 41. The challenged laws contained restrictive provisions which have since been annulled by the Constitutional court. The Constitutional court has the sole mandate to interpret the constitution and jurisdiction to determine whether any particular law or act of an individual or institution is in contravention of the Constitution.

The second category of cases involves appeals against information denials and so far only two cases have been filed in this respect.¹⁰¹ The first case in this category involved a petition before the High Court challenging the acts of the Permanent Secretary, Ministry of Energy in denying the petitioner's access to

⁹⁷ Misc. Cause No.751 of 2009

⁹⁸ Section 104, National Environment Act

⁹⁹ Section 119, Mining Act

¹⁰⁰ Major General Tinyefuza v. Attorney General, Constitutional Petition No.1 of 1997 (Supreme Court) (unreported)

¹⁰¹ See Greenwatch Uganda Limited v. Attorney General and Uganda Electricity Transmission Company Ltd (UETCL), HCCS No. 139 of 2001 (High Court) (unreported) and Charles Mwanguhya Mpagi & Izama Angelo vs. Attorney General (Misc Cause No.751 of 2009)(Chief Magistrate's Court at Nakawa)

the Power Purchasing Agreements (PPA) entered into between the government of Uganda and AES Nile Power. Although the PPA was found to be a public document, the petitioner was denied access to the said document on grounds that it had failed to prove it was a corporate citizen.¹⁰² The second case brought much later in 2009 is much similar to the first one and involved a petition before the Chief Magistrates court challenging the acts of the Permanent Secretary, Ministry of Energy in denying the two petitioners access to details of the Production Sharing Agreements (PSAs) entered into between the government of Uganda and various oil companies.¹⁰³ In the main the two petitioners prayed for an order for release of information contained in PSAs.

III. Impact of Court Decisions

All the cases brought on ATI (six in total) affirm the right to information as a fundamental constitutional right. In three of the cases, the court struck down provisions of the challenged laws on the basis that they were in contravention with Article 41 of the Constitution. In the other two cases, the court extended the right to information to corporate citizens and expounded on exceptions under Article 41 of the Constitution stating among others that information may only be denied where disclosure would harm state security or sovereignty and where it would interfere with the right to privacy of others. It's only in one of the six cases that the court denied almost all the petitioners' prayers.¹⁰⁴ Even then this was in the lower court that has no binding authority on other courts. It can therefore be concluded that there is presently firm precedent on the right to information although the most recent case suggests that some judicial officers are oblivious to this pattern and may not readily apply these precedents. Lastly, while various provisions that counter the right to information have been struck down by the courts, there is no legislative action yet to fill the lacuna left by the court pronouncements. Public servants therefore continue to hide behind these legislative gaps to deny information requests.

Table 4: Court Cases heard under the Constitution, Sectoral laws and other ATI laws

Court Cases	Year	ATI/sectoral/Constitution/other ATI laws	Did court order release of information?
Major General Tinyefuza v. Attorney General, Constitutional Petition No.1 of 1997 (Supreme Court) (unreported)	1997	Article 41 of the Constitution	Yes (in camera)
Zachary Olum and Anor v. Attorney General Constitutional Petition No. 6 of 1999 (Constitutional Court) (unreported)	1999	Article 41 of the Constitution	Yes
Greenwatch Uganda Limited v. Attorney General and Uganda Electricity	2001	Article 41 of the Constitution	No

¹⁰² *Id*

¹⁰³ *Id*

¹⁰⁴ These include decisions in the Tinyefuza, Zachary Olum, Greenwatch, Ssemwogerere and Monitor cases.

Transmission Company Ltd (UETCL), HCCS No. 139 of 2001 (High Court) (unreported)			
Paul Ssemwogerere, Zachary Olum and Juliet Rainer Kafire v. Attorney General, Constitutional Appeal No. 1 of 2002 (Unreported)	2002	Article 41 of the Constitution	Case not about release of information but rather constitutionality of Section 15 of the National Assembly (Powers and Privileges) Act <i>vis-à-vis</i> Article 41 on the Right to information. Article 41 upheld.
Attorney General v. Chief Editor Monitor Publications Ltd and Anor, Miscellaneous Application No. 675 of 2003 (High Court) (Unreported)	2003	Article 41 of the Constitution	Case about exceptions to the right to information under Article 41.
Charles Mwanguhya Mpagi & Izama Angelo vs. Attorney General (Misc Cause No.751 of 2009)(Chief Magistrate's Court at Nakawa)	2009	Article 41 of the Constitution and Sections 34 (b) and 37 Of the Access to Information Act 2005	No

SECTION 5: CONCLUSIONS

A. RESEARCH CONCLUSIONS

I. Legal and Policy Framework- The Constitution, ATI Laws, Environment and Natural Resources Laws

Overall, the Ugandan legal and policy framework recognises the right of citizens to information. The Constitution which is the supreme law of the land strongly guarantees the right of citizens to information in the hands of the government and its agencies. Information can only be withheld where disclosure would be prejudicial to state security or sovereignty and where it would interfere with another person's right to privacy. The right to information is also recognized under the Access to Information Act 2005. It is however observable that as compared to the Constitution, the Act is highly limitative and has a broad exemption regime that strays far beyond the exemptions set by the Constitution. Similarly, both the Act

and the Regulations made thereunder are inadequate as for instance they don't provide for any educational and promotional mechanisms. This has by far hindered the full implementation of the law. The continued presence of archaic, restrictive and colonial situated laws such as the Official Secrets Act on the country's statue books has further limited the free flow of information. These laws still co-exist with freedom of information legislation and have on many occasions been evoked by duty holders to deny citizens' requests for information.

Aside from the Constitution and the Access to Information Act, information provisions can be found in the various sector laws in the natural resource and environment sectors. These laws enjoin the relevant sectors to collect, preserve and disseminate information related to the environment and natural resources. Further, a large number of laws in the environment and natural resource sector encourage citizen participation in processes of determining the impact of particular activities on the environment. In particular regard to natural resources law, following the recent discovery of commercially viable amounts of oil, two major Petroleum laws have been proposed. Both Bills recognize and provide for the right to information related to petroleum activities although for the most part they are restrictive and contain numerous claw back clauses. Nonetheless there is still room for renegotiation since these bills are still in their infancy stages pending consultation with the various stakeholders including parliament the law making body. It is important that these laws when finally passed promote transparency and efficiency in the oil sector if Uganda is to avoid the oil curse that has befallen many African countries. This can only happen where citizens are updated of developments in the sector since its only then that they can meaningfully participate.

The ATI law when finally enacted took unnecessarily long to become fully operational as a consequence the delay in formulation and approval of regulations key for the Acts operation. Although this law has been in existence since 2005, knowledge about the law by any public officials is limited. Those who have some knowledge do not understand its provisions or their roles in availing the public with information. Because of this, they regard it more as a hindrance to their work and are not receptive to those seeking for information under the provisions of the ATI law. This explains why the process the researchers were told to follow while requesting for information was neither in the ATI law nor even in the various sectoral laws, rather, these were the procedures at the respective government institutions. Using the ATI law is not sufficient for one to access information held by public institutions. A combination of both the ATI and sectoral laws would suffice. But this also depends on whether the public authorities are made aware of the provisions in the ATI law. Consequently, the access to environmental information regime set out in natural resources legislation may be concluded to be much more successful than main stream laws as far as it is more practical and less stringent.

Finally, it should be noted that the right to information has been recognized by the courts on many occasions. The right to information was affirmed in the first ever case to be brought under the new 1995 Constitution. A litany of court decisions advancing the right to information has since followed and so far only one case involving enforcement of the right to information has been dismissed without the sought remedy. Even then, this was by the Chief Magistrates Court which is the lowest court in the hierarchy of courts and does not have power to make binding decisions.

B. WAY FORWARD/RECOMMENDATIONS

II. Legal and Policy Framework- The Constitution, ATI Laws, Environment and Natural Resources Laws

- The Access to Information Act and Regulations made thereunder should be reviewed to promote full disclosure of information by public bodies since as it is now it contains much wider restrictions than those contained in the Constitution under which it is made. For example cabinet records should be opened to public scrutiny as long as they don't relate to state sovereignty, security or infringe on another person's right to privacy. The provisions of the Uganda Act should be revisited to provide for a strong record keeping and management system.
- The government should ensure that every institution has a designated information officer as provided for in the law to act as the focal person to whom requests for information should be addressed. These information officers should be trained on their mandates as provided for in the law. Institutions should classify the type of information that is readily available as well as that which cannot be accessed by the public.
- There should be mass sensitisation and awareness on the Access to information laws. This needs concerted effort from both the government and civil society.
- A special body should be established to promote the Access to Information Act through public education and sensitization. As it appears, not many citizens know about their right to information and the law on access to information and the body once established would facilitate the role of educating the public. This body should also be tasked with the role of monitoring compliance of public bodies with the Act and ensure the law is enforced.
- The present fees structure under the Access to Information Regulations is not affordable for most Ugandans majority of who live below the poverty line. The cost of accessing information should be fixed at an equivalent of what is spent to photocopy the requested documents.
- Proactive disclosure should be promoted as this not only facilitates full disclosure but also reduces on the costs of information requests. Information can be proactively disclosed by public bodies on their official websites, manuals, reports, newspapers and other media channels.
- Information and transparency provisions in the proposed bills particularly those in the oil sector should be strengthened. As it is now, the Bills contain several limitations and claw back clauses far beyond what is envisaged in the Constitution which is the supreme law of the land. Oil revenues if not managed in a transparent manner for the benefit of all citizens are a recipe for civil strife and conflict as has been witnessed in many countries especially across Africa.

- There should be a requirement for oil exploration and production companies to disclose their revenues as is the case with the American Security Exchange Commission (SEC) which requires listed companies to all payments made to governments. This way there is increased transparency in the sector especially where complemented by mandatory disclosure of oil revenues by the government under the proposed Public Finance Bill.
- Archaic, restrictive and colonial oriented laws which have the unreasonable effect of hampering the right of citizens to information such as the Official Secrets Act should be repealed and taken off the country's statute books. The other unprogressive laws include; some provisions of the Evidence Act, Parliament (Powers and Privileges) Act and the proposed Press and Journalism Bill.
- Litigation on the constitutional right to information should be strengthened especially where the Access to Information Act is restrictive. Nonetheless such a strategy should be beyond bringing cases before the courts and involve the judiciary and its members through colloquiums aimed at sharing experiences with the judiciary. Finally, responsible bodies to whom court decisions are directed should take such decisions seriously and implement them to the letter otherwise they should be found in contempt of court and individuals in those bodies held accountable.
- A comprehensive internal appeal mechanism be developed given the protracted and costly nature of court proceedings in Uganda. Presently, courts are experiencing a huge case backlog and litigation is unduly prolonged while an internal mechanism would be cheaper and faster.

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Tumushabe, Godber., Bainomugiosha, Arthur., Makumbi,Irene., Mwebaza, Rose., Manyindo, Mwenda, Andrew. (2002). *Consolidating. , Environmental Democracy in Uganda through Access to Justice, Information and Participation*. Advocates Coalition on Development and the Environment (ACODE)

Annexure 1.**Annotated Bibliography**

The purpose of the annotated bibliography is to collect existing scholarly literature and research on ATI in each country in order to summarize key findings and assess gaps in knowledge.

FULL TITLE + DATE	Access to environmental information in Uganda Forestry and oil production (2008)
AUTHORS + ORGANIZATIONS	Christophe Schwarte, Foundation for International Environmental Law and Development (FIELD)
PUBLISHER	Foundation for International Environmental Law and Development (FIELD).
SUMMARY + POLICY RECOMMENDATIONS	<p>The research study assesses the laws and practices related to public access to environmental information in Uganda. The report outlines potential areas of activity and makes specific recommendations that could be implemented with limited resources within the existing framework of law, policy and institutions.</p> <p>These are:</p> <ul style="list-style-type: none"> • to develop subsidiary legislation that enshrines openness as a core value and strengthens the independence of civil servants; • to improve the use of the internet by government institutions and build the required technical capacity, in terms of skills and equipment, within government institutions to operate an up to date website; to undertake a strategic impact assessment of the new oil and gas policy; • to channel financial aid aimed at improving environmental governance • and strengthening civil society through credible non partisan Ugandan civil society organisations; and • to reinvigorate the Ugandan Environment Information Network.
SIGNIFICANCE	To review the quality and implementation of the legal framework it used a set of indicators developed by the Access Initiative. The indicators were applied with a special focus on forestry and oil exploration.
METHODS	<ul style="list-style-type: none"> • TAI Methodology • Review of the existing legal framework pertaining to environmental information • Focus group discussions <p>In order to determine if and to what extent people in Uganda have access to information concerning the environment that is held by Public authorities, relevant TAI indicators were applied to the existing law and its implementation.</p> <p>The TAI indicators provided a comprehensive framework to examine general barriers and opportunities for better access.</p> <p>Questions were raised as part of the TAI methodology to capture the complexity of issues involved and distinguished between the collection and dissemination of and access to information whilst evaluating the quality of the existing law, the government's actual efforts in providing access and the level of access achieved.</p>
PARTNERS	Foundation for International Environmental Law and Development (FIELD),

SOURCE	International Institute for Environment and Development (IIED), Irish Aid. http://www.field.org.uk/files/FIELD_Access_Uganda.pdf
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FULL TITLE + DATE	Promoting the Application of Access Rights in Uganda Oil sub sector (2008)
AUTHORS + ORGANIZATIONS	Dickens Kamugisha, Edwin Muhereza, Doreen Elima and African Institute for Energy Governance (AFIEGO)
PUBLISHER	African Institute for Energy Governance (AFIEGO)
SUMMARY + POLICY RECOMMENDATIONS	<p>The research analyses the benefits that accrue to a country as a result of applying access rights and presents an analysis of Uganda's legal, policy and institutional framework that can make access rights applicable.</p> <p>It is recommended that :</p> <ul style="list-style-type: none"> • Total overhaul of legislation governing access rights and oil exploration, using a case of Norway. • Engage the public in oil policy, management and production especially local communities. • Apply internationally recognized transparency mechanisms in oil exploration and production like Publish What You pay • Enhance overall political accountability through strengthening existing and new relevant institutions. • Provide for a clear and specific benefit-sharing mechanism
SIGNIFICANCE	To contribute to Uganda's efforts to ensure that the recently discovered oil and other extractive resources benefit the entire country, especially the poor and vulnerable communities through participatory natural resources democracy.
METHODS	<ul style="list-style-type: none"> • Examines access rights application experiences in and outside Africa and makes a case for Uganda. • Selected case studies for lessons. • Documentary review of benefits that accrue to a country as a results of applying access rights. • situational analysis of Uganda's legal, policy and institutional framework
PARTNERS	African Institute for Energy Governance (AFIEGO), Open Society Institute (OSI), Open Society Initiative for East Africa (OSIEA)
SOURCE	http://resources.renewewatch.org/sites/default/files/Defying%20History,%20May%202008.pdf www.afiego.org/

FULL TITLE + DATE	Sharing Oil and Gas Revenue in Uganda (2008)
AUTHORS + ORGANIZATIONS	Telly Muramira , Jacob Mayindo and Uganda Wildlife Society (UWS).
PUBLISHER	Uganda Wildlife Society (UWS)
SUMMARY + POLICY RECOMMENDATIONS	The research report specifically focuses on identifying key policy issues relating to oil and gas revenue sharing with a view to articulating them into a proposal for an oil and gas derivation fund for Uganda. The primary motivation of this report is to provide practical suggestions on how local communities, local governments and the central government may fairly and equitably share revenue from oil and gas resources.
SIGNIFICANCE	To propose a revenue sharing formula and derivation fund for the oil and gas sector in Uganda.
METHODS	<ul style="list-style-type: none"> • desk reviews and • expert consultations with a number of professionals and practitioners in natural resource planning, resource economics and finance in Uganda and abroad. • Specific attention was given to the environmental impact studies of the oil exploration, extraction and proposed refining activities in western and south western Uganda, the National Oil and Gas Policy for Uganda, and the various critical reviews of the aforementioned policy. • A limited legal review and interpretation of the constitution and oil and gas law enriched this study.
PARTNERS	Uganda Wildlife Society (UWS), Irish AID, World Resources Institute (WRI)
SOURCE	www.uws.or.ug

FULL TITLE + DATE	Consolidating Environmental Democracy in Uganda through Access to Justice, Information and Participation (2002)
AUTHORS + ORGANIZATIONS	Godber Tumushabe, Arthur Bainomugisha, Irene Makumbi, Rose Mwebaza, Jacob Manyindo, Andrew Mwenda and Advocates Coalition on Development and the Environment (ACODE)
PUBLISHER	Advocates Coalition on Development and the Environment (ACODE)
SUMMARY + POLICY RECOMMENDATIONS	The research is an analysis of the independent assessment of Uganda's implementation of Principle 10 of the Rio Declaration. The assessment was undertaken as part of the Access Initiative (TAI) based on a common set of indicators. It measures national progress in promoting access to public participation, information and justice.

SIGNIFICANCE	To review the quality and implementation of the legal framework it used a set of indicators developed by the Access Initiative. The indicators were applied with a special focus on forestry and oil exploration.
METHODS	<ul style="list-style-type: none"> • TAI methodology • Case studies • Review of national laws and the policy process
PARTNERS	Advocates Coalition on Development and the Environment (ACODE).
SOURCE	www.acode-u.org/documents/SustDev.PDF

FULL TITLE + DATE	Contracts Curse: Uganda's Oil Agreements place profit before people (2010)
AUTHORS + ORGANIZATIONS	Taimour Lay and Mika Minio- Paluello and PLATFORM.
PUBLISHER	PLATFORM.
SUMMARY + POLICY RECOMMENDATIONS	<p>The research report aimed at providing an in-depth analysis of Uganda's Production Sharing Agreements covering oil development in the Albertine Graben. The contracts were investigated relating to economics, sovereignty, human rights and the environment. PLATFORM obtained and released draft copies of Heritage's and Tullows' oil Blocks containing a comparison of terms with that of Dominion. Block 3A was at the time licensed to Heritage oil and Gas, the report is based primarily on clauses from Block 3A contract.</p> <p>Observing the weak economic terms and the clear lack of both environmental protection provisions and accountability of oil security forces, the report recommends that:</p> <ul style="list-style-type: none"> • Urgent changes should be made to the contracts, legislation and regulatory regime covering oil, to achieve some level of environmental protection, to ensure accountability for military forces enforcing security, to protect a degree of Ugandan sovereignty, to minimize economic distortion through revenue flows, to capture a more appropriate share of the revenues and to re-apportion the economic risks. • The terms of Uganda's Production Sharing Agreements be negotiated, taking into account the analysis of the report, to reduce the likelihood that these contracts will undermine the economy, sovereignty, stability, environment and human rights of Uganda. • Environmental protection be prioritized with clear lines of accountability, high enough fines to act as deterrents against failures and pollution and enforced reinstatement of land and water to prior conditions. • Revision of the economic terms of the oil contracts to ensure that Uganda benefits from 'upside' including high oil prices and does not carry disproportionate risks from increased costs.

	<ul style="list-style-type: none"> • Systemic improvement in transparency on the part of the government and the companies, and an end to secrecy covering contracts, revenue flows, negotiations and future plans. • Uganda enacts the legislation for a regulatory regime that protects rights, environment, health and safety.
SIGNIFICANCE	To provide an in-depth analysis of Uganda's Production Sharing Agreements covering oil development in the Albertine Graben basing on PLATFORM's investigation of the contract terms relating to economics, sovereignty, human rights and the environment.
METHODS	<ul style="list-style-type: none"> • Analysis of relevant paragraphs in the Uganda content in relation to current oil company practice in Uganda and in comparison to contract terms in other countries. • Exploration of the balance of rights and responsibilities between the Ugandan government and the oil companies, and who carries which risks.
PARTNERS	Civil Society Coalition on Oil (CSCO), the Advocates Coalition for Development and Environment (ACODE), Africa Institute for Energy Governance (AFIEGO) and Human Rights Network (HURINET).
SOURCE	www.carbon web.org/Uganda

FULL TITLE + DATE	Donor Engagement in Uganda's Oil and Gas Sector: An Agenda for Action (2010)
AUTHORS + ORGANIZATIONS	Global Witness.
PUBLISHER	Global Witness
SUMMARY + POLICY RECOMMENDATIONS	<p>The research paper makes the case for a more pro-active approach from the donor community and calls on it to play a greater role in strengthening governance of the emerging sector at all stages along the value chain of oil production.</p> <p>It outlines several policies which Uganda's donors could adopt to prevent governance failures seen in other countries over the past decade where corruption and family rule have been dominant features such as</p> <ul style="list-style-type: none"> • Incorporate basic transparency and governance benchmarks for the oil and gas sector within the joint budget support framework. • Disbursements of future aid should be linked to performance against these benchmarks.
SIGNIFICANCE	To discuss Uganda's oil sector within the context of the wider governance environment
METHODS	

	<ul style="list-style-type: none"> • conducted research into Uganda's emerging oil and gas sector between June and August 2010. • Visits to Uganda • held meetings with key opinion and decision takers in government, military, development aid, business, parliament, civil society and media circles, as well as communities living in the country's oil-rich regions. <p>The areas visited were Kampala, Hoima, Buliisa, Masindi, Murchison Falls, Pakwach, Arua and Gulu.</p>
PARTNERS	Global witness
SOURCE	www.globalwitness.org

FULL TITLE + DATE	In Search of Forest Governance Reform in Uganda (2010)
AUTHORS + ORGANIZATIONS	Steve Amooti Nsita.
PUBLISHER	.(Un published)
SUMMARY + POLICY RECOMMENDATIONS	The main objective of this research study is to provide general background information to forestry governance in Uganda. The findings together with the governance indicators were the basis for a meeting of experts on the Uganda forestry scene. The meeting utilized a governance questionnaire to identify governance areas requiring attention. The governance areas helped in the design of a forest governance reform strategy for Uganda.
SIGNIFICANCE	To provide general background information to forestry governance in Uganda.
METHODS	<ul style="list-style-type: none"> • desk research • Review of existing documents for issues pertinent to the current forest governance status in the country. • Consultation of relevant players in, or around the forestry sector for clarification. <p>In addition, there are wide ranging consultations going on in the process of revising the National Forest Plan and initiatives for Reducing Emissions from Deforestation and forest Degradation (REDD+). In these processes many views are being expressed about forest governance and the Consultant had the opportunity to tap into them to enrich the research.</p>
PARTNERS	World Bank, Ministry of Water and Environment, Uganda and program on forests (PROFOR),
SOURCE	www.profor.info/.../Uganda-forestgovernance-June2010-draft.pdf

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FULL TITLE + DATE	An analysis of Laws inconsistent with the Right of Access to Information (2010)
AUTHORS + ORGANIZATIONS	Dan Ngabirano and HURINET – U
PUBLISHER	Human Rights Network-Uganda. (HURINET-U)
SUMMARY + POLICY RECOMMENDATIONS	<p>The study explored and critically analyzed laws inconsistent with the Access to Information Act of Uganda in order to aid strategic impact litigation meant to challenge those provisions that set out to limit the right of access to information. The review was premised on the fact that Uganda's access to information implementation campaign was set in motion with litigation and it appears that actors need to resort back to litigation for implementation of the Act to be realized.</p> <p>The report suggests that unless these laws are harmonized with both the Constitution and the Access to Information Act, full access to information will remain a myth.</p> <ul style="list-style-type: none"> • The definition of an official document should be revised and made much more precise. Only those documents that pose a serious and demonstrable risk to state security should be classified as official documents. • Secondly powers to determine whether a document is an official document or not should be vested in courts of law. In the event that such powers are vested in the Minister, provision for judicial review should be made. • Section 2 of the Act should be repealed and in its place, a precise and concise provision made. Importantly, to commit an offence under the Act, the information sought must be that which threatens state security. • The burden of proving offences under the Act must squarely rest on the prosecution and should not at any moment shift to the accused. • Section 4 should be amended in clear and precise language that prohibits disclosure of only that information that poses immediate risk of serious harm to national security or other legitimate interest enunciated under Article 41 of the Constitution which lays out allowable limitations to the right of access to information.
SIGNIFICANCE	To explore and critically analyze laws inconsistent with the Access to Information Act noting that most provisions of the Access to Information Act remain unimplemented
METHODS	<ul style="list-style-type: none"> • Review of the domestic legal framework • Analysis of the laws that are inconsistent with the Access to Information Act 2005.

	The report subjects the Act to closer scrutiny, pointing out such gaps and challenges. The analysis looks at the laws that contradict with the ATIA specifically emphasis was put on the Official secrets Act, the Parliamentary (Powers and privileges) Act, and the Evidence Act. The report goes beyond identification of issues of concern, to providing concrete recommendations that different stakeholders need to closely look at for further advocacy in form of amendment, or repeal of certain laws so as to make the Access to information Act achieve its intended purpose
PARTNERS	Human Rights Network-Uganda (HURINET-U), Foundation Open Society Institute OSI-ZUG
SOURCE	right2info.org/resources/publications/uganda-analysis-of-laws

FULL TITLE + DATE	Survey Report on the requests for public information (2010)
AUTHORS + ORGANIZATIONS	Human Rights Network-Uganda. (HURINET –U)
PUBLISHER	Human Rights Network-Uganda. (HURINET –U)
SUMMARY + POLICY RECOMMENDATIONS	<p>HURINET-U undertook a survey 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.</p> <p>The 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.</p> <p>The survey was undertaken 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.</p> <p>As a result of the survey undertaken, it was recommended that:</p> <ul style="list-style-type: none"> • 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. • There is also need to train various stake holders likely to use the law

	<p>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.</p> <ul style="list-style-type: none"> • the government shows commitment to achieve the maximum use of the law • civil society should vigilantly take advantage of internationally recognized events that directly affect the recognition and implementation of the right to access of information. • 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. • the whole legal framework be monitored to identify what laws or administrative procedures are likely to impinge on access to information law. • Development of information management system • enacting the regulations to the Act. • The government needs to implement the internal appeals mechanism which currently is unclear as provided for in the ATI Act.
SIGNIFICANCE	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 from the survey will 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.
METHODS	<ul style="list-style-type: none"> • 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 was undertaken. The findings of the survey are necessary to inform the advocacy strategies for the full implementation of the Access to Information law and the highlight the need for the regulations. • Stratified sampling was applied in selecting respondents. • The study involved collection of data using key informants, focus group discussions and interviews. Open and closed ended questionnaires were used to obtain primary data from the respondents. • 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
PARTNERS	Open Society for East Africa (OSIEA) , National Union of Disabled Persons of Uganda (NUDIPU), Uganda Media Development Foundation (UMDF), Human Rights Network for Journalists (HRNJ-Uganda), PANOS-Eastern Africa, The Uganda Association of Women Lawyers (FIDA), Anti-Corruption Coalition-Uganda (ACCU), Human Rights Network-Uganda (HURINET-U), Uganda Women's Network (UWONET).
SOURCE	www.hurinet.or.ug

FULL TITLE + DATE	The Impact of Copyright on Access to Public Information in African Countries: A perspective from Uganda and South Africa (2008)
AUTHORS + ORGANIZATIONS	Denise Rosemary Nicholson and Dick Kawooya and African Copyright and Access to Knowledge Project (ACA2K)
PUBLISHER	University of the Witwatersrand, Johannesburg, South Africa
SUMMARY + POLICY RECOMMENDATIONS	<p>The paper approaches access to information in the narrow lens of access to government information and the impact of copyright in the access process. The paper draws from the context of Uganda and South Africa. Putting the differences and similarities aside, access to public information in Africa is constrained by a number of other factors which may or may not be shared by both countries. The paper draws from the shared histories of the two countries and other access-related factors to examine the constraints and opportunities for access to public information.</p> <p>The paper recommends that :</p> <ul style="list-style-type: none"> • the Ugandan Copyright Act be reviewed, as soon as possible, with the intention of assigning or releasing public information into the public domain. • A culture of the right to information needs to be nurtured in South Africa, so that the public are confident to file requests for information through relevant legislative channels • Government officials should be qualified to provide advice and information to the public on exercising their rights in terms of the Promotion of Access to Information Act and other relevant legislation. This would also help “to reduce the culture of secrecy embedded in many areas of public administration • Civil societies monitor the whole body of laws that manage the right to information. • Other laws mentioned which negatively affect access to information, particularly public information need to be challenged
SIGNIFICANCE	To examine the constraints and opportunities for access to public information.
METHODS	<ul style="list-style-type: none"> • Examination of copyright laws as important legal frameworks for addressing access to public information. • Analysis of other important legal frameworks, including constitutional provisions, with implications for access to public information or government information. • An examination of the Ugandan situation and the South African context. • Historical analysis of the shared history of the two countries and other access related factors to examine the constraints and opportunities for access to information.
PARTNERS	African Copyright and Access to Knowledge Project (ACA2K), University of the Witwatersrand

SOURCE	http://www.ifla.org/IV/ifla74/index.htm
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FULL TITLE + DATE	African Copyright and Access to knowledge : Country Report Uganda (2003)
AUTHORS + ORGANIZATIONS	Dick Kwooya, Ronald Kakungulu and Jeroline Akubu and African Copyright and Access to knowledge (ACA2K)
PUBLISHER	African Copyright and Access to knowledge (ACA2K)
SUMMARY + POLICY RECOMMENDATIONS	<p>The study of the impact of copyright and access to knowledge in Uganda was premised on a copyright environment that is slightly removed from the realities of the average Ugandan. The study findings point to widespread lack of knowledge of copyright by most Ugandans, educated and uneducated alike. Additionally, findings of the study tend to focus on the wider environment than access specifically.</p> <p>The study found that there exists a unique opportunity to engage Ugandan policymakers on how best to reform copyright law to increase access to knowledge.</p> <p>The study suggests that</p> <ul style="list-style-type: none"> • awareness of the demands of local media industries, especially publishers, is crucial to growing local content – as this niche is likely to be one of the key drivers of future knowledge production and consumption in Uganda. • more awareness of the impact of copyright on access to learning materials/knowledge is needed among all stakeholder groupings
SIGNIFICANCE	To review the impact of copyright and access to knowledge in Uganda and assess the role of information and communication technologies (ICTs) in advancing access.
METHODS	<p>The study involved</p> <ul style="list-style-type: none"> • legal and case analysis, • review of secondary literature, and • impact assessment interviews. <p>Interviews were conducted to provide an understanding of the intentions of the policymakers who craft laws, as well as the impact of the laws on practices. Interviews were conducted with stakeholders representing government, administrators, professionals, users – including university students and university officials – and rights-holders.</p>
PARTNERS	International Development Research Centre (IDRC), the Shuttleworth Foundation and the LINK Centre, Graduate School of Public and Development Management (P&DM), Wits University.
SOURCE	http://www.aca2k.org , http://www.idrc.ca , http://www.shuttleworthfoundation.org , http://link.wits.ac.za

FULL TITLE + DATE	Our rights, Our information. Empowering people to demand rights through knowledge (2007)
AUTHORS + ORGANIZATIONS	Maja Daruwala and Venkatesh Nayak (Eds) and Commonwealth Human Rights Initiative (CHRI)
PUBLISHER	Commonwealth Human Rights Initiative (CHRI)Foundation
SUMMARY + POLICY RECOMMENDATIONS	<p>The research study illustrates the unique nature of the right to information as an empowerment tool that everyday people can use to demand access to the full range of their human rights. It points out the essential role information can play in refocusing government priorities toward the needs of the people by enabling them to develop and express informed opinions and play an active role in influencing the policies that affect their lives and examines the ways in which the right to information can be practically implemented at the national level.</p> <p>The research surmise that :</p> <ul style="list-style-type: none"> Putting in place systems that provide the public with access to information is one of the most positive steps a government can take to achieve a variety of economic, social and political goals such as equitable economic development, poverty alleviation and the reduction of corruption. <p>This requires effective policies, laws and practical mechanisms that ensure access to information.</p>
SIGNIFICANCE	To provide new knowledge about how the right to information can empower members of society to stand up and demand the practical realisation of the human rights which governments have promised to deliver.
METHODS	<ul style="list-style-type: none"> The research entailed the use of case studies sourced from Australia, India, Jamaica, Sweden, United Kingdom, Canada, Iran, New Zealand, Thailand, United States of America, Greece, Ireland, Slovakia, Uganda. <p>The collection of case studies illustrates the unique nature of the right to information as an empowerment tool that everyday people can use to demand access to the full range of their human rights.</p>
PARTNERS	Amnesty International, Article 19, Association for Democratic Reforms, Centre for Peace and Development Initiatives, European Roma Rights Centre, Jamaicans for Justice, Mexican Institute of Environmental Rights, Open Justice Initiative, Parivartan, Rural Development Volunteer Association, Terram, Transparency International, Vlk (Wolf) Forest, Protection Movement, Women of Uganda Network, Foundation for International Environmental Law and Development (FIELD), International Institute for Environment and Development (IIED), Irish Aid.

SOURCE	www.humanrightsinitiative.org
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FULL TITLE + DATE	Best Practices in Environmental Information Management in Africa. The Uganda Case Study (2009)
AUTHORS + ORGANIZATIONS	Elizabeth Kironde Gowa and UNEP/GRID-Arendal and NEMA Uganda
PUBLISHER	UNEP/GRID-Arendal
SUMMARY + POLICY RECOMMENDATIONS	<p>The availability of consistent, up-to-date and relevant environmental information is a pre-requisite for rational and cost-effective decision making processes. The Uganda National Environment Management Authority (NEMA) over the past 10 years has been the effective management of environmental information. The report presents an overview of the genesis of environment information in Uganda, the current institutional arrangements and the challenges to the environmental information regime.</p> <p>The report recommends that:</p> <ul style="list-style-type: none"> • It might be necessary to develop an appropriate set of rules or subsidiary legislation that specifically governs environment information • It would be beneficial for professionals from the different districts and sector institutions to meet regularly to share ideas and best practices. • There should be a more innovative approach to the production and dissemination of public information. • There needs to be a deliberate strategy to continuously address technical competence in environmental information management. • It is necessary to strengthen the entire information management life-cycle.
SIGNIFICANCE	To provide a snapshot of both the successes achieved and challenges faced in managing environmental data and information in Uganda. The report provides a genesis of environment Information regime in Uganda.
METHODS	<ul style="list-style-type: none"> • Historical analysis and overview • Review of the current institutional arrangements • Analysis of the management of environmental information in Uganda.
PARTNERS	UNEP/GRID-Arendal and NEMA Uganda.
SOURCE	www.unep.org/pdf/UgandaCaseStudy.pdf

FULL TITLE + DATE	Access to information; an instrumental right for empowerment (2007)
AUTHORS + ORGANIZATIONS	ADC Asociación por los Derechos Civiles, or Aassocation for Civil Rights (ADC) And Article 19. UK Foreign and Commonwealth Office (FCO)- Global Opportunities Fund
PUBLISHER	Article 19
SUMMARY + POLICY	The study presents both concepts about the relationship between

RECOMMENDATIONS	access to information and social rights, as well as strategies that can be used to realize social rights through the assertion of the right of access to information. The study recommends that: <ul style="list-style-type: none">• government take steps to prevent private groups or individuals from interfering with lawful communication of information.• governments must also fulfill the right by providing information in circumstances of particular public interest.• States should allow individuals access to information that may have an impact on their life, which will allow them to exercise other rights.• Individuals should know about public policies and measures that the government has taken in relation to these rights, in order to control the development of such policies.
SIGNIFICANCE	To promote the right of access to information. One of the goals of the project, called “Information for Transparency”, is to provide a set of tools to assist in the practical realization of this right.
METHODS	• Use of case studies
PARTNERS	ADC Asociación por los Derechos Civiles, or Association for Civil Rights (ADC) AND Article 19. UK Foreign and Commonwealth Office (FCO)- Global Opportunities Fund
SOURCE	www.article19.org/pdfs/publications/ati-empowerment-right.pdf

FULL TITLE + DATE	Building capacity for archives and dissemination of information in Uganda: A case study of Uganda Broadcasting Corporation and Directorate of Information (2007)
AUTHORS + ORGANIZATIONS	Elisam Magara and Uganda National Commission for UNESCO (UNATCOM)
PUBLISHER	Uganda National Commission for UNESCO (UNATCOM)
SUMMARY + POLICY RECOMMENDATIONS	The study reviews the current state of the audio-visual records/materials in the Directorate of Information (DOI) and UBC to provide a digitisation strategy to enhance effective information dissemination in Uganda. It explores existing policies and legislations for archiving and dissemination of information in Uganda, so that strategies may be provided for archiving and dissemination of information in the country. The study recommends that: <ul style="list-style-type: none">• Digitization will require a library management system.• The basic architecture of the archiving software could ensure the online operations with a central database (on hard disk).• Establishing of a media Archives Centre will enhance the archiving function and dissemination of information. This requires policy and a

	<ul style="list-style-type: none"> master plan to guide the selection of records, conservation and restoration, indexing and development of metadata systems. Creating an environment conducive to the enactment and maintenance of legislation and policies for protecting and safeguarding effective archiving and information dissemination in the country. Ensuring a sustainable infrastructure and funding for archiving and dissemination of information in Uganda Ensuring effective coordination for archiving and information dissemination in the country
SIGNIFICANCE	To review the current state of the audiovisual records and materials in the Directorate of Information (DOI) and the Uganda Broadcasting Corporation (UBC), to provide a digitization strategy to enhance effective information dissemination in Uganda.
METHODS	<ul style="list-style-type: none"> A phenomenological qualitative research design to identify the nature and characteristics of archiving of audiovisual records in both UBC and DOI. Two districts in Uganda from different regions (Masaka, representing central Uganda and Bushenyi, representing upcountry stations) were selected, to establish the status of archiving in the districts. Identification and carrying out the requirements for archiving, in order to develop an implementation strategy. Document analysis on government policies on the information sector
PARTNERS	East African School of Library and Information Science, Makerere University, Uganda National Commission for UNESCO (UNATCOM) and United Nations Educational Scientific and Cultural Organisation (UNESCO).
SOURCE	www.unesco-uganda.ug

FULL TITLE + DATE	Closing the Gap: Information, Participation and Justice in decision making for the environment. (2002)
AUTHORS + ORGANIZATIONS	Elena Petkova, Crescencia Maure , Norbet Henninger, Francis Irwin, John Coyle, Gretchen Hoff and World Resources Institute (WRI)
PUBLISHER	World Resources Institute (WRI)
SUMMARY + POLICY RECOMMENDATIONS	The research study identifies the strengths and weaknesses of specific national systems of public participation in environmental decision-making. It combines original data produced at the national level and a specific focus on environmental governance with independent assessment and application to multiple countries.

	<p>The study recommends that:</p> <ul style="list-style-type: none"> • National governments and the international community as a whole support independent assessment and monitoring as a first step toward improved performance. • The international community should support refinement and application of a common assessment tool to support national implementation. • Efforts to improve national systems should include attention to all three principles • Where the legal framework for access is in place, efforts should focus on closing the gap between law and practice. • Public interest groups and the media, two engines driving demand for access, should be encouraged to play their roles vigorously and responsibly. • The international community should support national efforts through donor assistance and incorporation of access norms into international institutions and agreements
SIGNIFICANCE	The study address the status of access to information, participation, and justice in nine asking the question, What have national governments done—and what do they still need to do—to create effective systems of public participation in their countries?
METHODS	<ul style="list-style-type: none"> • TAI Methodology- to generate indicators assessing the performance of national governments in implementing the three access principles articulated in Principle 10 of the Rio Declaration. • research teams in nine countries—Chile, Hungary, India, Indonesia, Mexico, South Africa, Thailand, Uganda, and the United States—employed a common methodological framework on a pilot basis to assess the performance of their governments in meeting the Rio • comparative review of findings from studies conducted in regions and countries other than the nine countries represented in the pilot assessment. • Research questions are designed to generate indicators and to assess the law and practice of public participation in a country. • Documentary review, • Interviews, and • Surveys
PARTNERS	Bauman Foundation, the C.S. Mott Foundation, Danish Ministry of Foreign Affairs, Italian Ministry of Environmentand Territories, Netherlands Ministry of Foreign Affairs, Spencer T. and Ann W. Olin Foundation, Swedish International Development Agency, Trust for Mutual Understanding, United Kingdom Foreign and Commonwealth Office, U.S. Department of State, and Wallace Global Fund.
SOURCE	pdf.wri.org/closing_the_gap.pdf

FULL TITLE + DATE	Access to Information in Uganda: An examination of recent developments (2006)
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AUTHORS + ORGANIZATIONS	R. Ikoja-Odongo & Dick Kwooya
PUBLISHER	The East African Journal of Peace and Human Rights Vol. 12 (2)
SUMMARY + POLICY RECOMMENDATIONS	<p>The paper examines Uganda's 2005 Access to Information Act, and points out a number of critical issues that have been left out of the legislation, and those that are likely to undermine its effective implementation. The paper appreciates the Freedom of Access to Information and enabling laws as critical mechanisms for helping the poor overcome poverty and effectively participate politically and economically.</p> <p>The paper makes recommendations that would ensure the Act is rendered more workable and effective within the context of existing conditions in the country. These are:</p> <ul style="list-style-type: none"> • The law should establish minimum standards regarding maintenance and reservation of records kept by public bodies. This includes allocating sufficient resources to ensure that keeping of public records is done properly. • The law should make a provision for public education and for the dissemination of information regarding the right to access information and the scope of information that is available. Mechanisms to address the misuse of the culture of secrecy within government under the guise of secrets should also be provided in the law. • Procedural mechanisms for accessing information, the scope of whistleblower protection and how to maintain and access records sufficiently should all be put in place. It further recommends that every government body should compile a manual that explains its functions and which lists all types of information held by it. • Laws that are inconsistent with the freedom of access to information and records should be amended or repealed and cross referencing should be done to indicate them as operational • Government should move with dispatch towards e-Government
SIGNIFICANCE	To review the Access to Information Act with a view to raising issues that may result in the Act achieving less than what is expected from it. It also prescribes what could be done to improve its implementation.
METHODS	<ul style="list-style-type: none"> • Review of FOAI in Uganda and the international Arena • Analysis of the Access to Information Act of 2005 and its provisions relating to access to information and records. • Review of the exemptions <i>to Access, Complaints and Appeals, Miscellaneous aspects of the Act and the Implementation of the Act.</i> • <i>discusses the emerging concerns or the issues the Act has not addressed very clearly including Privileged Information, Executive Information, Information in Electronic Form, Information for commercial purpose, Cost of Accessing Information, Management of the Act, What Information does Government Have? Non-inclusiveness of the Act,</i>
PARTNERS	<p>University of Tennessee, USA</p> <p><i>East African Journal of Peace & Human Rights</i></p>

SOURCE	East African Journal of Peace & Human Rights vol.12 no.2 Pages 333-352. Dec. 2006
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FULL TITLE + DATE	Access to information in Uganda (2008)
AUTHORS + ORGANIZATIONS	Kenneth Kakuru and Greenwatch
PUBLISHER	(Unpublished)
SUMMARY + POLICY RECOMMENDATIONS	<p>The paper is an analysis of another paper titled “Access to Information in Uganda, An Examination of Recent Developments”, by R. Ikoja- Odongo & Dick Kwooya. The paper argues that the Act creates many limitations that are beyond those prescribed under the Constitution and as such most of its provisions are null and void. The paper surmises that the Access to Information Act is a bad law.</p> <p>The paper recommends that:</p> <ul style="list-style-type: none"> • Access to information is a fundamental human right, inherent and not granted by the State • The Constitution sets limits as rights are not absolute and the limits set by the Constitution constitute the maximum beyond which no law can add. As such, the Act cannot prescribe exemptions to the requirement for release of information. • The Act is limited to operationalisation of Article 41 of the <i>constitution</i> and should not state its own new limits.
SIGNIFICANCE	To illustrate that the access to information Act of Uganda does not provide for the right to access information as stated in the paper reviewed. It's effect is to limit and not provide access to information.
METHODS	Critical review/ analysis
PARTNERS	Greenwatch
SOURCE	www.greenwatch.or.ug

FULL TITLE + DATE	The Struggle for Access : An Assessment of the Capacity of Public Bodies to Implement Uganda’s Access to Information Act, 2005 (2012)
AUTHORS + ORGANIZATIONS	Africa Freedom of Information Centre (AFIC)
PUBLISHER	Unpublished
SUMMARY + POLICY RECOMMENDATIONS	<p>The research study assesses the capacity of public bodies to implement Uganda’s Access to Information Act, 2005. The research notes that the enactment of the Access to Information Act of 2005 has created opportunities for the public to enjoy the right of access to information but limited progress in implementation of the Act still stands in the way to full enjoyment of this right. The report recommends that:</p> <ul style="list-style-type: none"> • Public institutions should deliberately create awareness among their staff and clientele on the Access to Information Act of 2005 as well as related legislations and make copies of the Act available to all staff of public institutions and the general public. • Government should support the Ministry of Information and

	<p>National to produce and disseminate the Access to Information Act in major languages of the country.</p> <ul style="list-style-type: none"> • Funds for full implementation of the act should also be made available to institutions so that activities such as staff recruitment, training and equipment are deliberately undertaken. • The state should reduce the level of undue interference with the press in order to minimize the impact this will continue to have on the implementation of the Access to Information Act. • The public needs to be sensitised on their right of access to information as provided for in the act and other related legislations and should constantly be advised on where, when and how to seek redress in situations when they are denied access to public information.
SIGNIFICANCE	The study aims to contribute towards the observance and promotion of human rights in Uganda by generating and sharing information on extent to which public institutions in Uganda have implemented the 2005 Access to Information Act, existing institutional capacity and institutional practices for full implementation of the Act, existing good practices for replication and sharing and what needs to be done in order to accelerate implementation to full capacity.
METHODS	<ul style="list-style-type: none"> • A cross-sectional study design using primarily qualitative research. • Interviews of officers in government institutions • Review of reports, policy guidelines • Peer review of draft report at a public dialogue organised by AFIC and the United Nations Office of the High Commissioner for Human Rights (UN OHCHR) in May 2011 and the comments received incorporated into the final report.
PARTNERS	Coalition of Freedom of Information (COFI)
SOURCE	www.africafocentre.org/index.php?option=com_docman&Itemid=559

FULL TITLE + DATE	Legislating and Implementing Public Access to Information in Africa: What are the Incentives for Government and Civil Society Actors? (2012)
AUTHORS + ORGANIZATIONS	Gilbert Ronald Sendugwa and Africa Freedom of Information Centre (AFIC).
PUBLISHER	Unpublished
SUMMARY + POLICY RECOMMENDATIONS	The paper highlights civil society's role in stimulating demand for information, creating public awareness about the right of access to information, public education about the law, monitoring government compliance with the law and continued engagement of government are vital for successful implementation. It also identifies incentives for government to adopt and implement ATI laws. Noting that the lack of successful implementation in countries that have ATI laws has been a disincentive for

	<p>those that lack them to adopt ATI legislations, the report recommends that:</p> <ul style="list-style-type: none"> • NGOs generate demand and supply of information and take the lead on behalf of citizens to draw governments ‘attention to existing and new incentives to legislate and implement access laws • NGOs support coalition-building with NGOs and organizations across sectors given that ATI is a cross-cutting issue., • Research should be utilised as an advocacy tool. • Success stories in countries that have adopted and are implementing ATI legislation should be shared with countries without legislation to enhance incentive for adoption.
SIGNIFICANCE	To identify and examine incentives for government and civil society actors in legislating and implementing public access to information initiatives.
METHODS	<ul style="list-style-type: none"> • Review of the history of ATI in Africa. • Comparative analysis of the legal regimes and the situation in other African countries
PARTNERS	Africa Freedom of Information Centre (AFIC)
SOURCE	www.africafocentre.org/index.php?option=com_docman&itemid=559

FULL TITLE + DATE	The Uganda Freedom of information campaign: Stuck in the mud? A critical evaluation (2012)
AUTHORS + ORGANIZATIONS	Dan Ngabirano
PUBLISHER	Unpublished
SUMMARY + POLICY RECOMMENDATIONS	<p>The paper discusses progress of the Uganda freedom of information campaign and underscores the benefits of freedom of information in general. Tracing the evolution of the right to access of information and the status of the freedom of information campaign, the paper proposes strategies and recommendations based on the experience of South Africa for furtherance of the freedom of information campaign.</p> <p>These are:</p> <ul style="list-style-type: none"> • FOI advocates to reorganize and craft a joint approach to save the increasingly threatened right of access to information • Further caution and vigilance be exercised to ensure that the laws being hatched encourage and promote openness. • civil society consider and adopt strategic impact litigation as a strategy to have archaic laws that impede on access to information struck down. • Public awareness as a strategy that will uplift the campaign to greater levels while at the same time promoting citizens’ access to information in the hands of the public should be emphasized. • Ugandan civil society should be vibrant, consistent and well-coordinated.
SIGNIFICANCE	To review the progress of the freedom of information campaign in Uganda and highlight the role of civil society in steering the campaign.
METHODS	<ul style="list-style-type: none"> • Review of the existing legal framework pertaining to access to

	<p>information in Uganda.</p> <ul style="list-style-type: none"> • Analysis of international laws • Interviews • Comparative analysis with South Africa
PARTNERS	Open Foundation for Eastern Africa (OSIEA)
SOURCE	N/A

FULL TITLE + DATE	Passive and Active Resistance to Openness: The Transparency Model for Freedom of Information Acts (FOIAs) in Africa – three case studies (2011)
AUTHORS + ORGANIZATIONS	Carole Excell, Kenneth Kakuru, Alison Tilley, and Victor Brobbey and World Resources Institute, Greenwatch, Open Democracy Advisory Centre (ODAC), Centre for Democracy and Development (CDD).
PUBLISHER	World Resources Institute (WRI)
SUMMARY + POLICY RECOMMENDATIONS	This paper uses an analysis of the constitutions and FOIAs in Uganda and South Africa and the FOI Bill in Ghana to look at the ways in which the design of FOIAs allows government to exploit power imbalances between itself and citizens in order to actively and passively resist openness and transparency. The analysis agrees with the principles that the design of the law allows government to engage in “passive or even active resistance” to change and finds that the way in which FOIAs are written can either help counteract the discrepancy between the power held by government and that enjoyed by individual citizens, or they can work against that balancing act by providing tools for government actors to maintain an inherent advantage.
SIGNIFICANCE	To present preliminary research, analysis, findings, and recommendations of the ATI project in Africa.
METHODS	<ul style="list-style-type: none"> - Analysis of the constitutions and FOIAs in Uganda and South Africa and the FOI Bill in Ghana - Case studies
PARTNERS	Greenwatch, ODAC, CDD, WRI, IDRC
SOURCE	N/A

Annexure 2.

Timeline

A historical snapshot of key laws, precedent setting cases and decisions related to Access to information and implementation in Uganda

1.

DATE/LOCATION	9 October 1962 – Uganda
EVENT TITLE	Uganda gains independence
EVENT TYPE	Political action
DESCRIPTION	Uganda was a former British colony but gained independence in 1962. As a British Colony, Uganda was governed under colonial laws which were oppressive and exploitative. Access to information was therefore out of the question. At the time of independence, Uganda adapted the previous colonial laws.
SIGNIFICANCE	The attainment of independence for Uganda meant that the country could enact laws that were best suited for it.
SOURCES	<i>africanhistory.about.com/library/bl/bl-Independence-EA2.htm</i>
MEDIA	<p>http://www.unaatimes.com/2011/10/photo-archive-ugandas-independence-day-october-9th-1962/</p> <p>http://ugandaindependence.blogspot.com/</p> <p>http://www.ugpulse.com/government/1962-obote-and-uganda-s-independence/173/ug.aspx</p> <p>http://www.youtube.com/watch?v=8RMGZH7GI7s</p>

2.

DATE/LOCATION	1962 – Uganda
EVENT TITLE	The Promulgation of the first Constitution in Uganda
EVENT TYPE	Political action
DESCRIPTION	The first Constitution in Uganda attempted a quasi-federal arrangement, granting various degrees of autonomy to different local governments established during the period when Uganda was a British protectorate. This new constitution recognized Kingdoms in Uganda but failed to resolve the issue of the lost counties in the

	Lancashire conference. The constitution provided for the office of a President and a Prime Minister. It was the first supreme law of the independent state country.
SIGNIFICANCE	The first Constitution of Uganda provided for the First Parliament of Uganda, the National Assembly was partly elected and partly nominated. The Independence Constitution distributed the legislative powers.
SOURCES	http://www.unhabitat.org/publication/hs66702e/rr_chp3.pdf parliament of uganda on line at : http://www.parliament.go.ug/index.php?option=com_content&task=view&id=4&Itemid=3
MEDIA	n/a

3.

DATE/LOCATION	1963 Uganda
EVENT TITLE	The television Licensing Act
EVENT TYPE	Legislative reforms
DESCRIPTION	As the national, state-owned television station, Uganda Television continued to exercise monopoly over the airwaves and, rather than serving as a public service broadcaster, UTV was merely seen as a propaganda tool for the government.
SIGNIFICANCE	Impact on media freedom in Uganda: state's reliance on broadcast media helped it to perpetuate state control of information and expression through TV and radio
SOURCES	http://www.wmd.org/documents/jan08demnews18.pdf
MEDIA	n/a

4.

DATE/LOCATION	30 December 1964- Uganda
EVENT TITLE	The official Secrets Act
EVENT TYPE	Legislative reforms

DESCRIPTION	The act curtails obtaining, collecting, recording, publishing or communicating in “whatever manner to any person” official secrets. Government officials cannot release information to the public because they are bound by the oath of secrecy. Government officers take an oath prohibiting them to disclose information that comes to them by virtue of the offices they hold. Information can be released by the public officials only with the consent of the permanent secretary of a ministry or Chief Executive of a public institution who in most cases are not accessible to the public.
SIGNIFICANCE	This Act was used as a mechanism for controlling or limiting the sharing of information by government as it sets rules on the classification and protection of secret information.
SOURCES	<p>http://archive.lib.msu.edu/DMC/African%20Journals/pdfs/africa%20media%20review/vol11no2/jamr011002006.pdf</p> <p>http://right2info.org/resources/publications/uganda-analysis-of-laws</p> <p>http://archive.ifla.org/IV/ifla74/papers/087-Nicholson_Kawooya-en.pdf</p> <p>Republic of Uganda. Official Secrets Act, 1964. Cap. 168, section 7.</p> <p>Universal Periodic Review (UPR) for Uganda on line at: http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/JS3-JointSubmission3-eng.pdf</p>
MEDIA	n/a

5.

DATE/LOCATION	22 February – May 1966 - Uganda
EVENT TITLE	The suspension of the Constitution/ 1966 Constitutional crisis
EVENT TYPE	Political action
DESCRIPTION	Prime Minister Dr. Apollo Milton Obote suspended the Constitution of Uganda following the failure of the President Kabaka Mutesa II to implement what had been decided in the 1964 Referendum where the majority of the Banyoro had voted overwhelmingly to return the counties of Buyaga and Bugaingaizi from Buganda to Bunyoro. These areas, previously belonging to Bunyoro Kingdom, had been annexed and given to Buganda by the Colonial government as a result

	of Bunyoro's resistance to colonial rule. The suspension of the constitution was followed by the resignation of the members of the cabinet. The suspension of the constitution led to a constitutional crisis in Uganda leading to a state of emergency being declared.
SIGNIFICANCE	The absence of a supreme law governing the country . The Prime Minister imposed an Interim Constitution of 1966 and coerced parliament to approve it. This Constitution increased the executive powers of the President and that marked the beginning of political instability.
SOURCES	Independence: The Early Years , ch. 1, http://africanpress.me/2007/02/13/uganda-events-that-led-to-the-1966-crisis/
MEDIA	n/a

6.

DATE/LOCATION	1967- Uganda
EVENT TITLE	Public Order and security Act of 1967
EVENT TYPE	Legislative reforms
DESCRIPTION	This act empowered the government to detain any perceived to be a threat to order, security, and peace. The law had far-reaching consequences for access to information, for the freedom of journalists who worked for the government media to exercise full editorial freedom, and for the general exercise of media freedoms of both local and foreign journalists. They were frequently invoked to discipline and sometimes harass, intimidate or silence journalists. which conferred on the administration very wide powers to order the detention of any person suspected of disrupting the public order or compromising the security of the state.
SIGNIFICANCE	The law was used to detain opponents and silence opposition.
SOURCES	The social origins of violence in Uganda, 1964-1985, By Abdu Basajabaka Kawalya Kasozi, Nakanyike Musisi, James Mukooza Sejjengo Uganda Assessment report, online at: http://huripec.mak.ac.ug/working_paper_19.pdf
MEDIA	n/a

7.

DATE/LOCATION	8 September 1967- Uganda
EVENT TITLE	The enactment of the 1967 Republican Constitution
EVENT TYPE	Political action
DESCRIPTION	<p>Termed the pigeon hole Constitution, this was an interim constitution that proclaimed Uganda a republic, it made comprehensive changes that removed all federal provisions in favor of a centralized government. The constitution was debated for 3 months before its adoption on 8th September, including a month of discussions by a Constituent Assembly of members of Parliament and government accepted a substantial number of amendments. At the national level, the Constitution confirmed the president's position as the chief executive, in place of the preceding ceremonial president and therefore now had greater powers. Prime minister Dr. Milton Obote therefore became president in place of the king of Buganda, who had been elected to the position under the 1962 constitution. It also continued to sanction multiparty political competition and abolished traditional kingdoms in Uganda. The constitution empowered the government to employ preventive detention during states of emergency, or as the government deemed necessary.</p> <p>In Article 17 of the 1967 Constitution, freedom of expression was provided for as follows:</p> <p>17. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.</p>
SIGNIFICANCE	The Constitution provided for freedom of expression in Uganda however the protection provided for was extremely narrow.
SOURCES	http://www.ifra-nairobi.net/cahiers/Cahier_41/5Mutabazi.pdf http://huripec.mak.ac.ug/working_paper_18.pdf
MEDIA	n/a

8.

DATE/LOCATION	January 1971- Uganda
EVENT TITLE	Seizure of Power by Idi Amin
EVENT TYPE	Political action
DESCRIPTION	Idi Amin seized power through a military coup and vested all parliamentary powers in himself. He suspended the constitution paving way for ruling by decree and abolished political party activity. Political activity was severely curtailed under Amin. The Suspension of Political Activities Decree (1971) prohibited the organization or participation in any public meeting or procession for propagating or imparting political ideas or information, formation of political parties, wearing, uttering or displaying any party name, symbols or other paraphernalia. Because he ruled by decree, it was impossible for journalists, even those who worked for the government, to know the limits of media freedom or predict the repercussions of crossing the line. Many therefore either quit the profession or played safe. He began to use the military police, State Research Bureau (an intelligence body under his personal control), and the Public Safety Unit to brutally repress his opponents. From 1971 to 1979 the Uganda Parliament was in abeyance.
SIGNIFICANCE	Suspension of the constitution and vesting all parliamentary powers in himself meant that freedom and access to information was severely curtailed and freedom of expression was denied.
SOURCES	http://www.sharedhumanity.org/LibraryArticle.php?heading=Uganda,%20Gross%20Human%20Rights%20Violations%20in
MEDIA	http://kalamu.posterous.com/video-idi-amin-seized-power-in-uganda-today-w

9.

DATE/LOCATION	1972 Uganda
EVENT TITLE	Newspaper and Publication (Amendment) Decree in 1972.
EVENT TYPE	Political action
DESCRIPTION	

	The decree issued by the then president Idi Amin stipulated that “the Minister may, if he is satisfied that it is in the ‘public interest’ to do so by statutory order, prohibit the publication of any newspaper for a specified or indefinite period.
SIGNIFICANCE	Under that decree, Idi Amin banned publication of select privately-owned newspapers and further banned foreign newspapers, claiming they belonged to “confusing agents” – in essence those who did not agree with Amin’s beliefs
SOURCES	http://www.wmd.org/documents/jan08demnews18.pdf
MEDIA	n/a

10.

DATE/LOCATION	26 th October 1978
EVENT TITLE	The Control of broadcasting by taken over by the President.
EVENT TYPE	Political action
DESCRIPTION	<p>Amidst growing political insecurity, Radio Uganda slowly mutated into a government mouthpiece that was used to denounce those perceived as “opposition”, who, needless to say, had little access to this channel, while the Amin government published the Voice of Uganda as the official, state-run newspaper. During this period, the president took complete charge of the medium, employing military people to head the Ministry of Information and Broadcasting, hiring and firing editorial staff at will and interfering, sometimes physically, in editorial policy and content. In 1973, he established the Presidential Press Unit to ensure that his movements and activities were covered regularly, in detail and under his strict control. Under Amin, therefore, although the physical infrastructure of radio grew at an unprecedented rate, radio as a political space shrunk and was closed to the majority of Ugandans that were not directly associated with the military government.</p> <p>Radio Uganda and the Uganda Television remained the only two players in the broadcast sector. All independent print media were banned.</p>
SIGNIFICANCE	All independent print media were banned.
SOURCES	African media development initiatives: Uganda , online at http://www.radiopeaceafrica.org/assets/texts/pdf/UGA_AMDI_Report_pp4%202.pdf

	http://www.wmd.org/documents/jan08demnews18.pdf
MEDIA	n/a

11.

DATE/LOCATION	11 April 1979 Kampala Uganda
EVENT TITLE	Overthrow of Idi Amin Dada.
EVENT TYPE	Political action
DESCRIPTION	Amin was ousted by a joint force of Tanzanian peoples defence force and fled the Ugandan capital of Kampala as Tanzanian troops and forces of the Uganda National Liberation Front closed in. Two days later, Kampala fell and a coalition government of former exiles took power.
SIGNIFICANCE	Following the overthrow of the military regime in 1979, Uganda got an Interim Parliament known as the National Consultative Council. The Interim Parliament continued to be the Supreme Legislative Body until the general elections that were held in 1980.
SOURCES	www.ifra-nairobi.net/cahiers/Cahier_41/5Mutabazi.pdf www.cetri.be/spip.php?article1174
MEDIA	http://www.daylife.com/photo/01042Ix0jt9of?site=daylife&q=Idi+Amin http://www.daylife.com/topic/Idi_Amin/videos/1/videosurf

12.

DATE/LOCATION	27 July 1985 Uganda
EVENT TITLE	President Dr. Milton Obote deposed
EVENT TYPE	Political action
DESCRIPTION	Dr Milton Obote was on July 27, 1985, deposed as President of <i>Uganda</i> in a military coup led by the commander of the Army's northern region, Brig. Gen Tito Okello. Tito Okello's reign in 1985, government had monopolized the ownership of the broadcast media, all local broadcast journalists were government servants.

	The resultant culture of silence that engulfed them was reinforced by the fact that opposition political party activity had effectively been banned since the mid-1960s, and by the existence of the Official Secrets Act of 1964 which compelled government servants to vow to protect all information that came to them in the course of duty, or face up to 14 years in jail. This and the absence of any access to information laws had made it extremely difficult for the one existing radio outlet to serve as a forum for the expression of divergent political views.
SIGNIFICANCE	Parliament went into abeyance
SOURCES	www.justlikemychild.com/uganda-faqs.html
MEDIA	n/a

13.

DATE/LOCATION	25/26 January 1986 (Uganda)
EVENT TITLE	The Capture of Power by Yoweri Kaguta Museveni
EVENT TYPE	Political action
DESCRIPTION	National Resistance Movement/ Army (NRM/A) led by YK Museveni captured power on 25 th January and Museveni was sworn in as the new president of Uganda on 26 th of the same month. NRA toppled Tito Okello's government . The Legal Notice No. 1 of 1986, which established the legality of the NRM Government vested the legislative powers in the National Resistance council and the President. The NRM pledged it would establish legitimate and effective political institutions within the next four years. The NRM government promised fundamental change to establish peace and democracy, to rebuild the economy, and, above all, to end military indiscipline. The new government's political manifesto, the Ten-Point Program, argued that resolving the country's problems required the creation of grass-roots democracy, a politically educated army and police force, and greater national economic independence. It also insisted that the success of Uganda's new political institutions would depend on public servants who would forego self-enrichment at the nation's expense. Political education would be provided to explain the reasons for altering institutions and policies Uganda had used since independence. The new institutions and policies which the NRM announced it intended to put in their place involved drastic changes from the practices of earlier regimes.
SIGNIFICANCE	It signified the beginning of a new rule and a new era in Uganda's history. The Movement regime, had a ten point Programme, point No1 as "restoration of democracy.

SOURCES	www.nwsc.co.ug/publications02.php?id=42 http://www.iese.ac.mz/lib/publication/proelit/Sabiti_Makara.pdf President Yoweri Katunga Museveni, <i>Sowing the Mustard Seed</i> (London: MacMillian, 1997), p. 172. http://www.mongabay.com/reference/country_studies/uganda/GOVERNMENT.html
MEDIA	http://www.youtube.com/watch?v=OwyZoTbOQXk

14.

DATE/LOCATION	May 1986 (Gambia)
EVENT TITLE	Uganda becomes a party to the African Charter on Human and Peoples Rights
EVENT TYPE	International Action
DESCRIPTION	<p>Uganda is party to the African Charter on Human and Peoples Rights which was adopted on 27th June 1982 and entered into force on October 21st 1986 under the aegis of the Organization of African Unity (OAU). Uganda ratified the charter on Uganda ratified in May 1986. <i>Article 9(1)</i> states that “ Every individual shall have the right to receive information”. 2. Every individual shall have the right to express and disseminate his opinions within the law.</p> <p>Freedom of expression, as noted above, includes the right to seek, receive and impart information. Freedom of information, including the right to access information held by public authorities, is a core element of the broader right to freedom of expression.</p>
SIGNIFICANCE	The Charter set out freedom of information as part of the fundamental right to freedom of expression.
SOURCES	http://www.unesco.org/most/lnlaw26.htm http://www.article19.org/data/files/pdfs/analysis/uganda-bill-no.-7.pdf
MEDIA	n/a

15.

DATE/LOCATION	November 1988 (Uganda)
EVENT TITLE	The passing of the Constitutional Commission Act
EVENT TYPE	Legislative action
DESCRIPTION	The Constitutional Commission Act established a body the constitutional review commission in December to hear public testimony and draft a new constitution. The

	<p>Constitutional Commission's roles were to study and review the Constitution with a view to making proposals for the enactment of a national Constitution; formulate and structure a draft Constitution that would form the basis for the country's new national Constitution;</p> <p>The commission was to seek the views of the general public through the holding of public meetings and debates, seminars, workshops and any other form of collecting public views;</p> <p>(b) Would stimulate public discussions and awareness of Constitutional issues.</p> <p>(c) Would produce any document or thing that would be considered relevant to the functions of the Commission. The commission was later referred to as the Odoki commission.</p> <p>The Odoki Commission recommended, "the freedom of expression which includes freedom to speech, receive, hold and impart opinions, information and ideas without interference should apply to all individuals, groups and the media". Further, the Commission recommended, "public officials should be free to disclose information they come across in the course of their duties, provided it is not classified".</p>
SIGNIFICANCE	The genesis of Article 41 of the Constitution of Uganda can be traced to the recommendations of the Uganda Constitutional Commission. Reflecting on a constitutional history that entailed the non-respect for human rights and the absence of democratic values, the Odoki Commission pointed out that "the fundamental freedom of expression and the right of every person to information are vitally important rights, at the centre of the struggle for the defense of human rights and democracy".
SOURCES	<p>.The Parliament of the Republic of Uganda online at :</p> <p>http://www.parliament.go.ug/index.php?option=com_content&task=view&id=4&Itemid=3</p> <p>http://www.mongabay.com/reference/country_studies/uganda/GOVERNMENT.html</p> <p>http://www.constitutionnet.org/files/Odoki,%20B.%20Challenges%20of%20Constitution-making%20in%20Uganda.pdf</p>
MEDIA	n/a

DATE/LOCATION	1991 (Uganda)
EVENT TITLE	Electronic mail is introduced in Uganda
EVENT TYPE	National Event
DESCRIPTION	Electronic mail had its start in Uganda in 1991 when Makerere University joined a project supported by IDRC to provide FIDONET e-mail capability to university computer centers in five African countries. MUKLANET served e-mail users inside and outside of the university community until other forms of internet access became available in Uganda. The history of the internet in Uganda dates back to April 1993 with reference to the Fidonet node at Makerere university. Limited commercial e-mail services became available in August 1994. By October 1996, several organisations were offering internet connectivity and Makerere University Kampala Internet Service (MUKLANET) was providing email for students and faculty.
SIGNIFICANCE	This pioneer network at Makerere university was a Valuable contribution to the usefulness of Information Communications technology in Uganda.
SOURCES	http://www.foundation-partnership.org/linchpin/profiles.php http://www.itu.int/ITU-D/ict/cs/uganda/material/uganda.pdf
MEDIA	n/a

17.

DATE/LOCATION	18 December 1993 (Uganda)
EVENT TITLE	Licensing of the first privately owned radio station in Uganda
EVENT TYPE	National Event
DESCRIPTION	Radio Sanyu was licensed as the first privately owned radio station in Uganda. It paved the way for other radio stations such as capital radio in 1994 which introduced the first participatory political talk show, the “Capital Gang.” Listeners were free to call in and comment and they did. Radio Sanyu was a pioneer radio station in private broadcasting and since then many others have followed and changed the face of radio broadcasting in Uganda.
SIGNIFICANCE	It liberalized the airwaves and brought to an end the monopoly then enjoyed by the state-owned Radio Uganda.
SOURCES	www.cmi.no/file/?1012
MEDIA	n/a

18.

DATE/LOCATION	1995 (Uganda)
EVENT TITLE	Enactment of the Press and journalist Statute
EVENT TYPE	Legislative reform
DESCRIPTION	In 1995, shortly before the passing of the constitution, the Constitutional Assembly had passed the Press and Journalists Statute (1995) ¹ . The Act establishes the Media Council as the custodian of professional standards in the media. It guarantees the right of access to information, subject to other provisions relating to “ <i>national security, secrecy or confidentiality of information.</i> ” The press and journalist statute was enacted with the purpose of ensuring that freedom of the press to provide for a council responsible for the regulation of mass media, to establish an institute of journalists of Uganda and to repeal news paper and publications Act 1964 and the press censorship and correction Act. The Press and journalists Act extends Article 29 of the Constitution on Freedom of Expression, regulates eligibility for media ownership and requires journalists to register with the National Institute of Journalists of Uganda
SIGNIFICANCE	The passing of press and journalist act is significant in as the primary regulatory body, the Media Council is tasked with regulating the conduct and standards of journalists and overseeing their registration. The Media Council is also empowered to moderate disputes between the government or public and the media and to censor material destined for public consumption.
SOURCES	http://www.wmd.org/documents/jan08demnews18.pdf
MEDIA	n/a

19.

DATE/LOCATION	19 May 1995 Uganda
EVENT TITLE	Enactment of the National Environment Act
EVENT TYPE	Legal reform
DESCRIPTION	<p>The NEA National Environment Act Cap 153 put in place the institutional framework that established the National Environment Management Authority (NEMA). The National Environment Act of 1995 sets out the general legal framework and policy objectives for the sustainable management of the environment in Uganda.</p> <p>The NEA also provides for Environment Impact Assessment. It is a central policy of the Uganda EIA process that opportunity be provided for public involvement and participation, including individuals, or groups of local communities who may be directly affected by a proposed project. These may include government agencies, NGOs and other interest groups. The EIA process also provides EIA reviews through soliciting input of other stakeholders.</p>

SIGNIFICANCE	The NEA requires that NEMA produce a State of the Environment Report once every 2 years. Regular reporting on the environment to improve the management of environmental information. Thus enhancing access to environment information.
SOURCES	http://www.grida.no/publications/the-uganda-case-study/page/3579.aspx http://www.uneca.org/sdd/documents/ReportEIAUgandaFinal.pdf
MEDIA	n/a

20.

DATE/LOCATION	May 1995 (Uganda)
EVENT TITLE	Establishment of National Environment Management Authority
EVENT TYPE	Institutional Action
DESCRIPTION	NEMA is the principal agency responsible for the management of the environment in Uganda. It coordinates monitors and supervises all activities in the field of environment. The Authority thus has the mandate for the management of environment information in the country. This includes implementing standards for environment information; strengthening environment information units within sectoral institutions and linking them through a National Environment Information Network
SIGNIFICANCE	NEMA initiated programmes whose key elements were: the development of an Environment Information Network (EIN); a strategy for integrating environmental information into the development planning process; and the development of a training program in support of the environment information networks at the national and district levels. Improving public awareness and education
SOURCES	http://unstats.un.org/unsd/environment/envpdf/UNSD_UNEP_ECA%20Workshop/Uganda.pdf http://www.grida.no/publications/the-uganda-case-study/page/3579.aspx http://www.nemaug.org/about_NEMA.php
MEDIA	n/a

21.

DATE/LOCATION	21 st June 1995
EVENT TITLE	Ratification of the International Covenant on Civil and Political Rights.
EVENT TYPE	International Action

DESCRIPTION	<p>Uganda ratified the International Covenant on Civil and Political Rights in 1995. The International Covenant on Civil and Political Rights is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966, and in force from March 23, 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. It elaborates the principles laid out in UDHR and is legally binding on all states who have signed and ratified its provisions. Article 19 of the ICCPR stipulates that:</p> <p>(1) Everyone shall have the right to hold opinions without interference.</p> <p>(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.</p> <p>(3) The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:</p> <p>(a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (<i>ordre public</i>), or of public health or morals."</p>
SIGNIFICANCE	<p>This is ingrained in the Constitution of Uganda, Article 29(1) states that "<i>Every person has the right to: freedom of speech and expression, which shall include freedom of the press and other media; freedom of thought, conscience, and belief...</i>"</p> <p>And in Article 41(1) which indicates that "Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice security or sovereignty of the State or interfere with the right to privacy of any other person."</p>
SOURCES	<p>www.hrcr.org/docs/Civil&Political/intlcivpol.html</p> <p>www.uhrc.ug/index.php?option=com_k2&view=item...id...</p> <p>www.achpr.org/english/.../Uganda/UGANDA%20report_2_eng.pdf</p>
MEDIA	n/a

22.

DATE/LOCATION	8 October 1995 (Uganda)
EVENT TITLE	The Adoption of the 1995 Constitution of Uganda
EVENT TYPE	Legislative reforms

DESCRIPTION	<p>In 1995, Uganda's constitutional assembly passed the Constitution of the Republic of Uganda (1995), billed as the most forward looking in Uganda's history with regards to the aspect of media and access to information freedoms. The Constitution was enacted on 22nd September and adopted on 8th October. Article 29 (1) (a) reads: "Every person shall have the right to freedom of speech and expression, <i>which shall include freedom of the press and other media.</i>" Unlike previous constitutions, this one specifically mentions the media alongside "speech" and "expression" and does not contain claw back clauses, even though article 43(1) sets the limits for the enjoyment of all freedoms. With regards to the media, 43 (1) c is significant. It states that there will be no limitation to the rights and freedoms guaranteed by the constitution "...beyond what is acceptable and demonstrably justifiable in a free and democratic society."</p> <p>Finally Article 41 guarantees access to information and provides for the enacting of enabling laws. Article 41. (1) 'Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person. Restrictions on fundamental rights are provided for in Section 43 of the Constitution.</p>
SIGNIFICANCE	The Constitution guarantees fundamental rights and freedoms, including the right to access government information. Thus creating an enforceable right to access information.
SOURCES	www.assetrecovery.org/.../fc6c216f-5c8a-11dd-8c6a-7bd68e2d933e.. www.ugandawiki.ug/Constitution of Uganda
MEDIA	n/a

23.

DATE/LOCATION	21 June 1996 (Uganda)
EVENT TITLE	Enactment of the Electronic media statute
EVENT TYPE	Legislative reform
DESCRIPTION	Electronic Media Statute 1996 which provides for the establishment of a broadcasting council whose function is to issue licenses and regulate radio and T.V stations. The Broadcasting Council as the body in charge of issuing broadcast licenses and to serve as a liaison with the Ministry of Information.
SIGNIFICANCE	The National Broadcasting Council regulates media outlets and broadcast journalists.
SOURCES	http://www.wmd.org/documents/jan08demnews18.pdf

MEDIA	n/a
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24.

DATE/LOCATION	1997 (Uganda)
EVENT TITLE	The passing of the Uganda communications Act
EVENT TYPE	Legislative Action.
DESCRIPTION	In 1997, Parliament passed the Uganda Communications Act37, establishing the Uganda Communications Commission (UCC). By statute, the UCC regulates the national communications sector, setting and ensuring compliance with national communication standards, encouraging research, private investment and competition, and promoting consumer interests with regard to quality and equitable distribution of services. Much like the Broadcasting Council, however, the UCC is also responsible for licensing and regulating communication services and allocating radio frequency spectrum.
SIGNIFICANCE	This impacted on information and communication technologies in Uganda.
SOURCES	http://www.wmd.org/documents/jan08demnews18.pdf
MEDIA	n/a

25.

DATE/LOCATION	25 April 1997 (Uganda)
EVENT TITLE	<i>Constitutional Petition No.1 of 1996 [1997] UGCC 3 (25 April 1997) Major General David Tinyefuza vs. Attorney General</i>
EVENT TYPE	Court Action.
DESCRIPTION	<p>In the case of Major General David Tinyefuza vs. Attorney General vs. Major General David Tinyefuza, the then Chief Justice Wako Wambuzi while rejecting the claim of exemption by the Attorney General on the grounds of State security noted that;</p> <p>“...the Constitution has determined that a citizen shall have a right of access to information in state hands...it is no longer for the Head of Department to decide as he thinks fit. That unfettered discretion has been overturned by Article 41 of the Constitution”.</p>
SIGNIFICANCE	Enforcement by individuals of the right of access to information has largely been undertaken through filing of Constitutional petitions; the fact that the courts were steadfast in enforcing the right of access to information under the constitutional

	guarantees in spite of absence of (and a failure to enact) a specific access to information legislation during the ten or so years. To that end, certain elemental aspects of the right are discernable from the jurisprudence of the courts.
SOURCES	http://www.ulii.org/ug/cases/UGCC/1997/3.html
MEDIA	n/a

26.

DATE/LOCATION	1998
EVENT TITLE	Uganda ratified the UN declaration of Human rights
EVENT TYPE	International Action
DESCRIPTION	In 1998 Uganda ratified the Universal Declaration on Human Rights (UDHR). The declaration was adopted by the United Nations General Assembly on 10 December 1948 at Palais de Chaillot , Paris). It binds all states on the matter of customary International Law, which proclaims the right to information and freedom of expression. Article 19 of the UDHR states “ Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” It prominently enunciates the right of access to information under the right of freedom of expression.
SIGNIFICANCE	The UDHR is generally considered to be the flagship statement of international human rights. Article 19 of the UDHR, binding on all States as a matter of customary international law, guarantees not only the right to freedom of expression, but also the right to information. Uganda is obligated to protect the rights to freedom of opinion, expression, and access to information.
SOURCES	http://www.hrea.org/index.php?doc_id=408 http://www.ifex.org/uganda/2011/03/24/upr_submission/
MEDIA	n/a

27.

DATE/LOCATION	2000 (Uganda)
EVENT TITLE	Constitutional Appeal no. 1 of 2000 Paul K Semwogerere and Zachary Olum vs Attorney General.
EVENT TYPE	Court Action.
DESCRIPTION	

	<p>In the case of <i>Paul K Semwogerere and Zachary Olum vs Attorney General, Constitutional Appeal no. 1 of 2000</i> resulting from an appeal from a ruling of the Constitutional Court of Uganda in Constitutional Petition no 3 of 1999, an appeal was made against a ruling of the constitutional Court. The appeal was a result of the appellants allegations in their petition that the Referendum and Other provisions Act passed by Parliament were null and void. The defendants contended that the petition required the court to inquire into the internal proceedings of Parliament which is prohibited by law and practice and which would constitute an interference with the privileges and immunities of a sovereign Parliament.</p> <p>This petition was brought under Article 137(3) of the Constitution to challenge the validity of the referendum (political systems) Act, 2000. It sought declarations that the Act be declared null and void. Accordingly the Act which was discussed on 7th June 2000 by the National Assembly of Uganda was to make provision for the holding of the referendum required to be held under Article 127 of the Constitution to determine the political system of the people of Uganda would wish to adopt. On 9th June 2000, the Act received presidential assent. Section 2 of the Act provided that the Act would be deemed to have come into force on 2nd July 1999.</p> <p>Honourable Justice G.W Kanyeihamba held that while it is still a practical necessity for a litigant or a petitioner to write to the State, or organ or its agency in possession of information, once that information is obtained, with or without the cooperation of the State, or organ or agency concerned, the information is freely usable and admissible in courts of law unless it falls within the exceptions under Article 41 (1). Moreover where the State refuses to release such information, the citizen entitled to receive it may take the necessary legal steps to compel its release. He contended that the Constitutional Court erred in rejecting the evidence presented by the appellants in support of their petition.</p>
SIGNIFICANCE	The efforts and approaches taken by Ugandans to access information mainly through the courts was evidence that without a specific access to information legislation, the general public would continue to face significant bottlenecks in accessing information.
SOURCES	Kakuru. K and Ssekyana .I (Eds) 2009. Casebook on Environmental Law.
MEDIA	n/a

28.

DATE/LOCATION	2001 (Uganda)
EVENT TITLE	Greenwatch (U) Ltd v. Attorney General of Uganda and Uganda Electricity Transmission Co.Ltd. HCT-00-CV-MC-0139 of 2001
EVENT TYPE	Court Action

DESCRIPTION	<p>Greenwatch challenged the government on the refusal to make public the Power Purchase Agreement that was signed between government and AES Nile power Ltd in respect of the Bujagali project. The Court found that because the Implementation Agreement was signed by a Minister in her official capacity, the Implementation Agreement as a public document under Section 72 of the Evidence Act. The court reasoned that the Implementation Agreement and the Power Purchase Agreement were so intertwined that one could not “fully comprehend the full import of the Implementation Agreement without reading and digesting the Power Purchase Agreement,” and accordingly concluded that “the Power Purchase Agreement is in effect incorporated into the Implementation Agreement by reference.” Given that the Implementation Agreement was a public document, the Court therefore ruled that the Power Purchase Agreement was a public document too.</p> <p>The court rejected the argument that disclosure of the Power Purchase Agreement would harm state security and state sovereignty on the ground that the respondents’ affidavits did not show how disclosure to the public would affect the security of the state or its sovereignty (para. 27).</p>
SIGNIFICANCE	The court held in this case that every citizen (it defined a citizen to include companies in which Ugandans held majority shares and local Non Governmental Organisations) was entitled to information in the hands of the state except information that is specifically excluded by the Constitution under Article 41 (1), that is information that relates to the security, national sovereignty and privacy of an individual.
SOURCES	www.greenwatch.or.ug http://right2info.org/cases#uganda
MEDIA	n/a

29.

DATE/LOCATION	2002 (Uganda)
EVENT TITLE	The passing of the Anti-terrorism act
EVENT TYPE	Legislative action
DESCRIPTION	<p>The parliament of Uganda enacted the Anti- Terrorism Act in the wake of the September 11 attack on the USA. The Anti-Terrorism Act imposes additional burdens on the media, specifically related to coverage of any terrorist organization, and imposes a possible sentence of death on those found to have violated the law.</p> <p>The Act criminalizes journalists’ efforts to meet or speak with people or groups considered to be terrorists, again imposing a possible death sentence on the</p>

	convicted.
SIGNIFICANCE	The Act is significant in that it outlaws the disclosure of information that may prejudice an investigation concerning terrorism. The lack of a clear definition of what constitutes a terrorist group renders reporting on organizations doubly risky for journalists. It puts significant strain on media efforts to report those stories that originate from parties to a conflict. The Anti-Terrorism Act present challenges to the way journalists and media houses report on state institutions.
SOURCES	http://www.wmd.org/documents/jan08demnews18.pdf http://downloads.bbc.co.uk/worldservice/trust/pdf/AMDI/uganda/amdi_uganda3_me dia.pdf
MEDIA	n/a

30.

DATE/LOCATION	2003/ 2004 (Uganda)
EVENT TITLE	Civil society organisations advocate for a access to information legislation
EVENT TYPE	National Event
DESCRIPTION	<p>The Anti-Corruption Coalition Uganda (ACCU) called for an urgent law to allow the public access information as one way to stop corruption. This was after a survey carried out showed that corruption was at an increase and there were a lot of inefficient and poor service delivery due to the fact that people lacked information and could not hold their leaders accountable. An anticorruption week was organized by ACCU. Civil society further formed themselves into a Coalition on Freedom of Information (COFI) that continued to demand for the enactment of a legislation that would help in assisting the public to demand for the information and also fight corruption in all spheres.</p> <p>Civil Society Organizations under The Access Initiative, in collaboration with progressive members of Parliament, individual journalists and public spirited individuals drafted a private members bill.</p>
SIGNIFICANCE	The Attorney General drafted its own bill in response to work carried out by civil society , which was eventually passed and assented to on the 7 th day of July 2005 as the Access to Information Act, Act No. 6 of 2005.
SOURCES	<p>HURINET-U online at: http://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/uganda/uganda_draft_ati_bill.pdf</p> <p>Article 19 online at: http://www.article19.org/data/files/pdfs/analysis/uganda-bill-</p>

	<p>no.-7.pdf</p> <p>http://www.ms.dk/sw28335.asp</p> <p>Parliament of Uganda online at: http://www.parliament.go.ug/hansard/hans_view_date.jsp?dateYYYY=2004&dateMM=02&dateDD=17</p>
MEDIA	n/a

31.

DATE/LOCATION	14 th April 2004 Uganda
EVENT TITLE	Tabling of the Access to information bill in Uganda
EVENT TYPE	National Event
DESCRIPTION	<p>On 14 April 2004, the Minister for Information tabled the <i>Access to Information</i> Bill in Parliament. Although the Government had stated for some months that it was in the process of developing a draft Bill, civil society activists were not invited to input into the law-making process and were unable to obtain a copy of the draft Bill, prior to its submission to Parliament. The tabling of the Access to information bill was a response to the pressure from civil society organisations who together with a member of Parliament had drafted a private members bill.</p> <p>It was also a response to the governments unexplained and inordinate delay in presenting to Parliament an access to information bill in compliance with article 41 (2) of the Constitution. The private members bill was never presented however as the Attorney General drafted its own bill in response to work carried out by civil society.</p>
SIGNIFICANCE	The bill that was presented by the Attorney General did not contain any input from civil society.
SOURCES	
MEDIA	n/a

32.

DATE/LOCATION	7 July 2005 (Uganda)
EVENT TITLE	The Enactment of the Access to Information Act in Uganda

EVENT TYPE	Political Action
DESCRIPTION	The access to information Act was passed and assented to on the 7 th day of July 2005 as the Access to Information Act, Act No. 6 of 2005. It came into force on April 20, 2006. The President's office issued the Commencement Instrument on March 3, 2006 notifying the commencement to all government departments and agencies. The Act promotes an efficient, effective, transparent and accountable government, giving effect to Article 41 of the Constitution, protecting whistle blowers, promoting transparency and accountability in all the organs of the State as well as empowering the public to effectively scrutinise and participate in government decisions that affect them.
SIGNIFICANCE	Section 39 of the Access to Information Act 2005, provides that the rules committee shall within six months after the enactment of the Act make rules of procedure to regulate the procedure made under the same Act.
SOURCES	Human Rights Initiative online at: http://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/uganda/its_ur_rt_to_get_info_vincent_babalanda.pdf
MEDIA	n/a

33.

DATE/LOCATION	18 th and 19 th September 2006 Uganda
EVENT TITLE	A Kampala Declaration on the implementation of the Access to Information Act.
EVENT TYPE	National Event.
DESCRIPTION	Foundation for Human Rights Initiative in partnership with other government departments convened a roundtable discussion between the 18th and 19th September 2006 and unanimously adopted a Kampala Declaration on the implementation of the Access to Information Act which called on the government to take steps to establish the necessary infrastructure and systems which will ensure that the law is effectively operationalised.
SIGNIFICANCE	The Declaration pushed for the drafting of regulations that will provide the detailed procedure and guidelines for seeking and giving information under the ATI Act so that the Act could be operationalised.
SOURCES	http://allafrica.com/stories/200610171049.html www.humanrightsinitiative.org/.../declaration_on_ati_act_2005.pdf

MEDIA	n/a
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34.

DATE/LOCATION	April to July 2008 (Uganda)
EVENT TITLE	The access to information implementation plan (ATIP)
EVENT TYPE	National Event
DESCRIPTION	A task force was set up by the Ministry of Information comprising the different ministries as well as 2 civil society organizations which included HURINET-U started a process of developing a 5 year plan called Access to information implementation plan (ATIP) to design strategies of ensuring the law is implemented.
SIGNIFICANCE	This was a step towards designing the access to information regulations that would be used to operationalise the Access to information Act
SOURCES	www.hurinet.or.ug/index.php?option=com_docman...doc...
MEDIA	n/a

35.

DATE/LOCATION	23 rd November 2009 (Uganda)
EVENT TITLE	Charles Mwanguhya Mpagi and Izama Angelo v. Attorney General. 751of 2009
EVENT TYPE	Court action
DESCRIPTION	<p>The applicants, applied to the Chief Magistrate's Court in Nakawa for an order to force the government to disclose the oil Production Sharing Agreements. Application seeking from the court: (i) to set aside the administrative decisions actively or constructively denying access to the PSAs; (ii) a declaration that the public interest in disclosure is greater than any third party harm; and (iii) unrestricted access to the record of the PSAs in the public interest. The government argued that the disclosure would amount to a breach of contract because of PSA confidentiality clauses requiring third party consent of the prospecting companies, and that AIA § 28(1)(a) requires the rejection of an information request if the disclosure would breach a duty of confidence owed a third party.</p> <p>The applicants had applied to Attorney General and the Permanent Secretary of the Ministry of Energy and Mineral Resources requesting certified copies of agreements made between the government of Uganda and certain multinational oil companies for the purpose of oil prospecting and exploitation around the Lake Albert Region (Production Sharing Agreements, or PSAs). The request was refused on the grounds that a clause in the PSAs provided for confidentiality about the agreements and resulting information, and mandated the consent of the multinational companies for disclosure.</p>

SIGNIFICANCE	A court case that used the <i>Access to Information Act</i> to access information in the hands of the state.
SOURCES	http://right2info.org/cases#uganda
MEDIA	http://cpj.org/blog/2010/02/freedom-of-information-laws-struggle-to-take-hold.php

36.

DATE/LOCATION	22 nd December 2009 (Uganda)
EVENT TITLE	NGO petitions High Court over the Production Sharing Agreement
EVENT TYPE	Court action
DESCRIPTION	<p>Greenwatch, an environment advocacy NGO, petitioned the High Court of Uganda in a bid to compel the Government to release the Production Sharing Agreements it signed with several international oil companies.</p> <p>Uganda's constitution entitles all citizens a right to information within the possession of the state and it can only be legally withheld where disclosure jeopardises national security or compromises individual privacy. Greenwatch vs. Attorney General (Misc cause NO 232 of 2009)</p>
SIGNIFICANCE	The suit, though pending was filed in the High Court of Uganda using the constitutional provisions on access to information. This suit it is hoped will set a precedent on access to information in Uganda.
SOURCES	http://af.reuters.com/article/topNews/idAFJOE6040D020100105 www.greenwatch.or.ug
MEDIA	n/a

37.

DATE/LOCATION	3 rd February 2010 (Uganda)
EVENT TITLE	Court rules on the Access to information case filed in Nakawa Chief Magistrates court
EVENT TYPE	Court Action
DESCRIPTION	Nakawa Court passed the ruling in the first litigation about the Production Sharing

	<p>Agreements. The Chief Magistrate Court observed that the applicants had a right to access the oil agreements, but that, on balance, the harm (to confidentiality interests) from disclosure outweighed any public benefits from disclosure (given that the applicants failed to establish or even allege any concrete public benefits), and accordingly dismissed the application ruling that the government did not have to disclose the documents. The Court concluded that:</p> <ul style="list-style-type: none"> • The government has to show more than that disclosure would breach its contract with private oil companies given that a court order of disclosure “supersedes any agreement between the parties.” • Standard for 34(b) mandatory disclosure in the public interest requires that applicants demonstrate “that the public benefit in the disclosure of the details of the agreements far outweighs the harm” that would result from violation of the “privacy and confidentiality interest of the contracting parties.” • Applicants did not sufficiently establish that this application is brought in the public interest: failed to demonstrate that disclosure would translate into public engagement in oil exploitation or a more accountable government. • Trustee-beneficiary relationship between the government and the people vis-à-vis natural resources is a unique one that does not require disclosure, particularly where disclosure can be detrimental to the Ugandan people. • Other countries similarly keep these agreements confidential. <p>The case is now on appeal to the Ugandan High Court.</p>
SIGNIFICANCE	The case highlighted the setbacks of using the Access to information Act to access information in the hands of the state.
SOURCES	http://right2info.org/cases#uganda
MEDIA	n/a

38.

DATE/LOCATION	21 st April 2011
EVENT TITLE	Gazettement of the Access to information regulations
EVENT TYPE	Political Action
DESCRIPTION	The Access to Information regulations were passed to effect operationalisation and implementation of the Access to Information Act
SIGNIFICANCE	The passing of Access to Information Regulations is hoped to be a means through which the Access to Information Act will be operationalised. However, preliminary reviews show the regulations may be more restrictive to access information.
SOURCES	http://right2info.org/news/uganda-issues-regulation-to-implement-access-statute

	<p>http://www.accessinitiative.org/blog/2011/07/uganda%E2%80%99s-access-information-regulations-another-bump-road-transparency</p> <p>http://www.freedominfo.org/2011/07/uganda-access-regulations-problematical-wri-says/</p> <p>www.greenwatch.or.ug</p>
MEDIA	n/a

Annexure 3.**Citizen requests****1. NGO REQUESTER****Environmental information**

Government institution	Facility pollution report	Inspector facility monitoring report	Government enforcement notices	Law enforcement statistics
Ministry of Water and Environment	Record not in possession or under control of agency referred to the Wetlands Management Department	Record not in possession or under control of agency referred to the Wetlands Management Department	Record not in possession or under control of agency referred to the Wetlands Management Department	Record not in possession or under control of agency referred to the Wetlands Management Department
National Environment Management Authority	Refused	Refused	Refused	Refused
Wetlands Management Department	Mute refusal	Mute refusal	Mute refusal	Mute refusal

Natural resource information on Forestry

Government institution	Map of licences	Copy of concession agreement	Government revenue collected	People displaced
National Forestry Authority	Mute refusal	Mute refusal	Mute refusal	Mute refusal
Uganda Wildlife Authority	Mute refusal	Mute refusal	Mute refusal	Mute refusal

Natural resource information on Petroleum/Oil

Government institution	Map of licences	Copy of concession agreement	Government revenue collected	People displaced
Ministry of Finance Planning and Economic Development	Refused	Refused	Refused	Refused
Uganda Wildlife Authority	Refused	Refused	Refused	Refused
Petroleum Exploration and Production Department	Mute refusal	Mute refusal	Mute refusal	Mute refusal

Natural resource information on Mining

Government institution	Map of licences	Copy of concession agreement	Government revenue collected	People displaced
Ministry of Energy and Mineral Development	Record not in possession or under control of agency referred to Geological Survey and Mines Department	Record not in possession or under control of agency referred to Geological Survey and Mines Department	Record not in possession or under control of agency referred to Geological Survey and Mines Department	Record not in possession or under control of agency referred to Geological Survey and Mines Department
Geological Survey and Mines Department	Granted	Refused	Granted (not able to take a copy but was able to inspect)	Record not in possession or under control of agency
Energy Resources Department	Mute refusal	Refused	Mute refusal	Mute refusal

National Planning Authority	Refused	Refused	Refused	Refused
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Definitions:

Mute refusal: means that the requester did not get any reply at all, he was requesting for

Refused: means that the requester was denied the information

Granted; means that the requester was given the information he was requesting for

Record not in possession or under control of agency: means that the institution does not have the information the requester is requesting for

2. JOURNALIST REQUESTER

Natural resource information on forestry

Government institution	Map of licenses	Copy of concession agreement	Government revenue collected	People displaced
NFA	Mute Refusal	Mute Refusal	Mute Refusal	Mute Refusal
Uganda Wildlife Authority	Refused	Refused	Refused	Refused

Natural resource information on minerals

Government institution	Map of licenses	Copy of concession agreement	Government revenue collected	People displaced
Ministry of Energy and Minerals	Record not in Possession or under control of agency referred to Department of Geological Survey and Mines.	Record not in Possession or under control of agency referred to Department of Geological Survey and Mines.	Record not in Possession or under control of agency referred to Department of Geological Survey and Mines.	Record not in Possession or under control of agency referred to Department of Geological Survey and Mines.
	Record not in possession or			

National Planning Authority	under control of agency referred to Ministry of Energy and Mineral Development, Uganda Revenue Authority, Ministry of lands and National Forestry Authority.	under control of agency referred to Ministry of Energy and Mineral Development, Uganda Revenue Authority, Ministry of lands and National Forestry Authority	under control of agency referred to Ministry of Energy and Mineral Development, Uganda Revenue Authority, Ministry of lands and National Forestry Authority	under control of agency referred to Ministry of Energy and Mineral Development, Uganda Revenue Authority, Ministry of lands and National Forestry Authority
Department of Geological Survey and Mines	referred to the website.	Record not in Possession or under control of agency referred to Ministry of Energy and Mineral Resources.	Record not in Possession or under control of agency referred to Ministry of Energy and Mineral Resources.	Record not in Possession or under control of agency referred to Ministry of Energy and Mineral Resources.

Environmental Information.

Government institution	Facility Pollution report	Government enforcement Notice	Inspector facility monitoring report	Law enforcement Statistics.
Ministry of Water and Environment.	Record not in Possession or under control of agency referred National Environmental Management Authority.	Record not in Possession or under control of agency referred to National Environmental Management Authority.	Record not in Possession or under control of agency referred to National Environmental Management Authority.	Record not in Possession or under control of agency referred to National Environmental Management Authority.
National Environment Management Authority.		Granted.		
Wetlands Management Dept	Refused	Refusal	Refusal	Refusal

Natural resource information on oil/ Petroleum

Government institution	Map of licences	Copy of concession agreement	Government revenue collected	People displaced
Min. of Fin,Plan'g & Econ Devt	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development
Min. of Energy and Mineral Dev't	Granted	Refused	Granted (not able to take a copy but was able to inspect)	Refused
Uganda Wildlife Authority	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development and Petroleum Exploration and Production Department.	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development and Petroleum Exploration and Production Department.	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development and Petroleum Exploration and Production Department.	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development and Petroleum Exploration and Production Department.
PEPD	Granted	Refused	Granted	Granted

Mute refusal means that the researcher did not get any reply at all, he/ she was just ignored

Refused means that the researcher was denied information

Granted means that the researcher was given the information he / she was requesting for.

Record not in Possession or under control of agency means that the institution does not have the information requested for by the researcher

3. STUDENT REQUESTER

Environmental information

Government institution	Facility pollution report	Inspector facility monitoring report	Government enforcement notice	Law enforcement statistics
Ministry of Water & Environment	Granted	Record not in possession or under control of agency	Record not in possession or under control of agency	Record not in possession or under control of agency
NEMA	Refused	Granted	Refused	Refused
Wetlands Mang't Dept	Mute refusal	Mute refusal	Mute refusal	Mute refusal

Natural resource information on oil/ Petroleum

Government institution	Map of licences	Copy of concession agreement	Government revenue collected	People displaced
Min. of Fin,Plan'g & Econ Devt	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development	Record not in possession or under control of agency referred to Ministry of Energy and Mineral Development
PEPD	Granted	Refused	Record not in possession or under control of agency referred to the treasury.	Refused
UWA	Record not in possession or under control of agency referred to Petroleum Exploration and Production	Record not in possession or under control of agency referred to Petroleum Exploration and Production	Record not in possession or under control of agency referred to Petroleum Exploration and Production	Record not in possession or under control of agency referred to Petroleum Exploration and Production

	Development.	Development.	Development.	Development.
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Natural resource information on forestry

Government institution	Map of licences	Copy of concession agreement	Government revenue collected	People displaced
NFA	Refused	Refused	Refused	Refused
UWA	Mute refusal	Mute refusal	Mute refusal	Mute refusal

Natural resource information on minerals

Government institution	Map of licences	Copy of concession agreement	Government revenue collected	People displaced
Min. of Energy & Min. Dvt	Record not in possession or under control of agency referred to the department of geological survey and mines.	Record not in possession or under control of agency referred to the department of geological survey and mines	Record not in possession or under control of agency referred to the department of geological survey and mines	Record not in possession or under control of agency referred to the department of geological survey and mines
Geol. Survey & Mines Department	Granted	Granted (not able to take a copy but was able to inspect)	Granted	Record not in possession or under control of agency referred to Uganda Bureau of Statistics.
National Planning Authority	Record not in possession or under control of agency referred to Department of geological survey and mines	Record not in possession or under control of agency referred to Department of geological survey and mines	Record not in possession or under control of agency referred to Department of geological survey and mines	Record not in possession or under control of agency referred to Department of geological survey and mines
Energy Resources Department	Record not in possession or under control of agency referred to Department of geological survey and mines.	Record not in possession or under control of agency referred to Department of geological survey and mines.	Record not in possession or under control of agency referred to Department of geological survey and mines.	Record not in possession or under control of agency referred to Department of geological survey and mines.

Mute refusal means that the researcher did not get any reply at all, he/ she was just ignored

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About Greenwatch.

Greenwatch is an environmental rights advocacy organization established in 1995 with the aim of enhancing public participation in the sustainable use, management and protection of the environment and natural resources and in the enforcement of the right to a clean and healthy environment.

At Greenwatch, we advocate for the enforcement of and compliance with environmental laws and principles through training which results in increased environmental awareness. We review and analyze Environment Impact Assessments (EIAs) of development projects with a likelihood of impacting on the environment negatively; a process which aims at influencing policy making for improved environmental governance in Uganda.

We support community initiatives through dissemination of information on environmental rights and laws for effective participation in decision making; conduct research and training for the public as well as government enforcement officers on access rights: access to information, access to justice and public participation in the governance of natural resources.



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