THE WORLD BANK

Implementing Right to Information

A Case Study of Uganda

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Abbreviations and Acronyms

AFIC	Africa Freedom of Information Center
ATI	access to information
ATIA	Access to Information Act
ACODE	Advocates Coalition for Development
ACCU	Anti Corruption Coalition of Uganda
COFI	Coalition on Freedom of information
CSO	civil society organization
DIO	district information officer
DoPT	Department of Personnel and Training
FHRI	Foundation for Human Rights Initiative
HURINET	Human Rights Network
IFAI	Federal Institute for Access to Information
IGG	Inspector General of Government
IO	information officer
KCC	Kampala City Corporation
MDAs	ministries, departments, and agencies
NGO	Non Government Organization
NNF	National NGO Forum
NOCEM	National Organization for Civic Education and Election Monitoring
NRM	National Resistance Movement
OPM	Office of the Prime Minister
PAC	Public Accounts Committee
PRO	public relations officer
PSA	production sharing agreement
RTI	Right to Information
UDN	Uganda Debt Network
UHRC	Uganda Human Rights Commission
UHEDOC	Uganda Human Rights Education and Document Center
UPPA	Uganda Parliamentary Press Association

1. Introduction

Until 2010, Uganda was one of only four countries in Africa[1] with an access-to-information law, the Access to Information Act (ATIA), which was passed by Parliament in 2005, and formally came into effect in April 2006. Undertaken as part of a series of reforms in the lead up to the 2006 multiparty elections in the country, the passage of the law operationalized Article 41 of the Constitution, which provides citizens with the formal right to information (RTI) from the government.

The establishment of a legal *right* to government information by citizens is a critical principle in the quest for more accountable governments. The high profile examples of India and Mexico and, to some extent, South Africa, have created enormous expectations for RTI laws. Throughout much of Africa, focus on the passage of RTI laws has been one of the key issues of civil society activism. Unlike primarily promotional instruments that focus on promoting proactive disclosure by the government, the establishment of RTI shifts the balance on information control from a presumption of secrecy to a presumption of disclosure; citizens now have a formal, enforceable right enshrined in law to access a range of government information—everything that is not included in the list of exemptions. This is a significant step in the establishment of a key principle of accountable governance and represents a major development in governance systems characterized by archaic secrecy laws.

But, as is clear from the example of Uganda, the establishment of the law is a critical but inadequate step in the direction of instituting accountable governance. Sustained changes in transparency and accountability require concerted actions along several fronts. In Uganda, the theoretical victory clearly did not translate into a practical transformation in the accountability relationship between civil society and the government for the first six years of implementation. The passage of the law provided civil society groups a platform for engagement with government and advocacy efforts for greater accountability. But beyond this, the law did not succeed as a tool to mobilize or operationalize latent demand among citizens for information, nor did it serve as a tool for making government officials responsive to such requests. Very few measures were taken to enable the implementation of the law, and critical stumbling blocks rendered the other measures ineffectual; the most marked among them was the absence of regulations to operationalize the law for several years after its passage. Somewhat proactive civil society groups[2] did consistently lobby for the operationalization of the law, but awareness about its existence—even among civil society groups, aside from governance-focused NGOs—remained limited.[3] The handful of requests for information that have been filed using the ATIA have failed.

This paper assesses the experience of Uganda during the six-year period after the adoption of the 2005 Access to Information Act. The study is undertaken as part of a series of case studies on the implementation of access-to-information reforms in countries with a diverse set of experiences, range of income levels, and institutional capacity, and relative capacity and influence of civil society.[4] In the comparative perspective, the experience of Uganda on implementation is lagging that of other countries significantly.

The study is intended to serve three key objectives:

- To contribute to the drawing of comparative insights into the challenges and lessons of implementation.

- To assess the progress of implementation of ATIA, highlighting shortcomings, and proposing steps that could be taken to improve the implementation apparatus for access to information (ATI), drawing especially from the example of other countries and aimed at implementers and policymakers in Uganda.

- To provide a resource for other policy professionals and advocacy groups working in Africa and elsewhere in that the study highlights the fact that gaps in both design and implementation can be significant stumbling blocks to ATI laws. It would be useful for other countries in the region to examine the Uganda example to assess where the constraints to implementation could arise.

The study looked at three key dimensions of the operationalization of the ATIA: (1) whether the key mechanisms for implementation had been set in place; (2) if the law was being used as an instrument for enabling information access by citizens (either through proactive disclosure or responses to requests); and (3) whether the ATIA was enabling a change in the accountability relationships between state actors and civil society—a key objective of the law.

The study found that the answer on all three dimensions was negative. The various indicators used to assess the extent of the operation of the law show that efforts to implement it have been very limited. Some measures have been taken, including the identification of a nodal implementing agency, the preparation by the nodal agency of a fairly detailed implementation plan, and the appointment of dedicated information officers (IOs) in some ministries, departments, and agencies in response to an ATIA-related circular. But implementation has been stalled by an absence of key mechanisms, particularly implementing regulations.

With regard to the second dimension, research revealed only a few instances where the law was cited to request information. These were high profile cases or efforts to test the ATIA by civil society groups through requests; in every instance, they were met with denial or nonresponse, revealing the weaknesses of the implementation regime. While several advances have been made in the overall management and dissemination of information, the use of ATIA has not, to date, resulted in the disclosure of any secret information. With regard to proactive disclosure, many ministries have a range of initiatives to make information available, but they were not in response to the ATIA mandate *per se*.

Regarding the third dimension, the relationship between an ATI law and accountability is more complex. The existence of the law has two advantages. First, the law itself represents an important principle, making it an important part of the institutional development of the country that can be the basis for future transparency. Second, ATI laws can provide an important platform for civil society for engaging the government on accountability issues and keep these issues in the forefront of the public debate, as has happened in Uganda with numerous workshops and activities of NGOs. But the ATIA has not translated into an instrument for any changes in policy, control of corruption, or improvements in service delivery.

The research also showed that the experience of implementation of ATIA reflected broader trends in the environment for accountability in the country. In the 2010 Transparency International ranking,[5] Uganda declined to a ranking of 127th, with a score of 2.5, down from 2.6 in 2008. Uganda was also ranked as having the highest implementation gap on laws in the world—over 50 percent by the 2009 Global Integrity Report.[6]

As the other country case studies in this series demonstrate, three major stakeholders have an important bearing on RTI—whether or not laws get passed, implemented, or succeed as instruments to heighten accountability: the political regime, bureaucrats, and civil society groups. The dynamics between these groups is explanatory, to a large extent, of the experience with implementation of the laws. In Uganda, the relatively lower capacity and influence of key institutions of accountability—in particular that of civil society groups—has been the primary reason for the limited progress made on ATIA.

1.1. Methodology

The discussion is based on a detailed set of interviews, a review of key documents and policy statements procured from various government departments, and secondary sources (such as media and academic articles). The data on the passage of the legislation was secured from stakeholders closely connected to the process. Data on implementation was garnered from interviews conducted with the Directorate of Information and National guidance in the Office of the Prime Minister (OPM), the main agency in charge of implementing the ATIA—from documents made available as well as from interviews and visits to government agencies and civil society groups.

The case study also focuses on two departments—health and education. Looking at the dynamics of information sharing and dissemination through this sectoral lens is important because it is the sectors, ministries, agencies, and departments at various levels in each sector that are ultimately responsible for disseminating information and responding to requests. Information dissemination is critical to both sectors, both as a means of improving the ability of citizens to access their entitlements and to enable civil society groups to hold service providers accountable. The vulnerability of these sectors to corruption—in procurement, in the construction and rehabilitation of health and school facilities, and in the distribution and use of drugs and supplies—also makes transparency imperative (Hallak and Poisson 2007). It is important to clarify that the information gained from the health and education department are not evidence of implementation across all departments. In practice, the extent to which there is transparency (the way in which ATI is operationalized) will have different dynamics depending on the sector.[7]

2. Passage of the Legislation

Uganda predates its African counterparts in the passage of ATI legislation by several years. Civil society groups in several African countries have launched active movements for the adoption of ATI laws in the last decade,[8] and some countries are now putting such laws in place after long and difficult processes.[9] In Uganda, the support of the ruling National Resistance Movement (NRM) party for the law meant that it was passed relatively early and easily in 2005 when only a handful of developing countries had such laws on the books.

The legal foundation for the ATIA was provided by the 1995 Constitution that incorporated a guarantee on ATI to all citizens. This came directly from concerns about the human rights abuses of the preceding decades by the progressive Uganda Constitutional Commission led by Justice Benjamin Odoki. Article 41 of the 1995 Constitution reflects the commission's belief in the importance of the fundamental freedom of expression and the right of every person to information, seeing them as core to the rule of law and democracy: "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 privacy of any other person." Article 41 (2) also requires the parliament to make laws regarding procedures for obtaining access to that information, including timelines and complaint mechanisms.

These concerns and principles were also reflected in a series of governance reforms undertaken by the NRM regime, which came into power in 1986. Since the electoral victory in the 2011 elections, the NRM party has been in power for well over two decades, but even so, the political environment in the country has improved in the direction of political pluralism, with multiparty elections, political parties, and oppositional media and civil society voices becoming increasingly vocal. Radio and print media have grown and are relatively vibrant and vocal.[10]

The early years of the NRM movement—coming out of a debilitating two decades of human rights abuses, civil war, and crippling poverty—were charged with idealism, international support, and the visions of a new Uganda (Robinson, 2005, 2009). Progress on macroeconomic reforms, poverty reduction, and political stability was accompanied by a series of governance reforms and progressive policies on open media through the 1990s. Governance reforms in this period ranged from civil service restructuring, the creation of a series of semi-autonomous public agencies, reforms in public expenditure management, decentralization, innovations in service delivery, and legal and institutional measures to combat corruption (Robinson 2005).

In 2001, the NRM party won the single-party election with 69.33 percent of the vote.[11] While the proposal for multiparty elections in 2001 was defeated by a referendum, a challenge to the NRM's dominance of the political scene was already emerging. Various governance reforms were undertaken in the run up to the 2006 elections. At the international level, Uganda, signed and ratified several international and regional conventions on governance, including the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption. Uganda also signed on to several international and regional treaties and declarations that advance the right to ATI, such as the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples Rights, and the Universal Declaration of Human Rights.

Domestically, a new Inspectorate of Government Act clarified and strengthened the powers of the Inspector General of Government (IGG). In response to public and donor criticism of its poor record in prosecuting corruption cases and inefficiencies in its management structure, the IGG was restructured to strengthen its work and improve its effectiveness in discharging its constitutionally mandated duties (Nkata 2010). Key pieces of legislation were passed to improve accountability

and transparency: the Budget Act (2001), the Public Finance and Accountability Act (2003), the Leadership Code (2002), the Inspector General of Government Act (2002), and the Public Finance Act (2005). The 2005 Access to Information Act was part of this complement of reforms. However, the ambivalence of the regime was evident from the fact that a number of restrictive laws were also passed during this period, including the Anti Terrorism Law (2002), the pretext for which being the wake of the terrorist attack in the United States on September 11, 2001; the Uganda People's Defense Forces Act (2002), and the Police Act (2005).

Between 2002 and 2005, a number of prominent civil society groups—Advocates Coalition for Development (ACODE), Foundation for Human Rights Initiative (FHRI), and the Anti Corruption Coalition of Uganda (ACCU)—were engaged in trying to promote ATI, actively advocating for it as a tool for development and to fight corruption. In 2004, a group of civil society organizations (CSOs) moved toward introducing a private members bill in Parliament through a prominent Member of Parliament (MP), Abdu Kutuntu.[12] However, the government requested the withdrawal of that bill on the promise that it would introduce an ATI bill within a few weeks. The subsequent bill was introduced by the then Minister of Information, debated and passed by the Parliament, and assented to by the President in July 2005, coming into effect on April 20, 2006.

Interviewees attribute the passage of progressive laws, including ATIA, to the imperative faced by the NRM to seem progressive and reformist in the wake of the 2006 elections, especially as perceptions about a decline in the political and governance environment increased and pressures of aid agencies to open up the political space grew. A number of governance assessments of the country, such as the 2005 Good Governance Assessment by USAID, indicated that that the government was limiting the space for political participation. The USAID assessment (USAID 2005) pointed out, "The present analysis reaffirms that … although serious issues of inclusion, governance, and fragility persist and have the potential to fuel future conflict, the predominant issues in Uganda relate to competition … Unless there are significant positive developments during the lead-up to the 2006 elections, the analysis outlined in this assessment suggests the desirability of a progressive disengagement from direct support to central government institutions in the DG (democratic governance) sector …. and an increased emphasis on support to civil society, the media and the operation of political parties in Parliament."

At the same time, access to international resources, such as the U.S. Millennium Challenge Account, was premised on the idea of improving governance. The introduction of a constitutional amendment to remove the presidential term limits may also have prompted the government's active promotion of the ATI bill, as a way to counter public perception that the changes compromised government accountability; it may also have been a way to build public confidence that the constitutional amendment would not undermine transparency.[13]

3. Legal Environment

Laws are useful because they set in place the rules of the game and can only be effective when they are both comprehensiveness and clear. Although the Access to Information Act set in place a legal foundation, both critical flaws in the design of the legislation and contradictions with other elements of the broader regulatory environment for accountability created contradictory incentives.

Section 3 of the 2005 ATIA declares the purpose of the law as giving effect to Article 41 of the Constitution. The following analysis of the 2005 ATIA against global best practices is largely based on an analysis of the ATIA undertaken by the U.K.-based global advocacy organization Article XIX.[14] It also draws on the critiques of the law by civil society as well as interviews with civil society groups. The Article XIX analysis notes that, for the most part, the law was progressively drafted when assessed against good standards for right to access legislation. The Ugandan law follows many of the elements of global good practices for ATI laws, but with some significant exceptions. Although civil society groups saw the law as a progressive step, they identified a number of specific gaps, such as limitations in scope and the lack of an independent appeals mechanism. The strengths and weaknesses of key provisions are discussed below. [15]

3.1. Scope of Coverage

The law applies to all information and records of government ministries, departments, local governments, statutory corporations and bodies, commissions, and other agencies, but not to private bodies, corporate bodies, or civil society organizations, even when their activities affect the rights of citizens.[16]

The law does not cover private companies even if they are publicly funded, as service delivery companies are in Uganda, such as electricity, water, and sanitation. As more and more public services are contracted out to private companies, this becomes a very important omission because companies using public funds are not held accountable to the public. An illustration of this omission is the case in Bushenyi district, in which a private company was awarded a contract to construct a stadium but did not deliver on the contract. Public demands for the accountability of the funds, and attempts to obtain the contract certificates and bills of quantity—were not successful, and CSO groups were not able to use the ATIA to request this information. Many private companies use public funds to carry out works but they do not have to disclose any information because the confidentiality clauses protect their contracts.[17] This argument has been raised more visibly and emphatically in the refusal by government and private companies to share and make public details of production sharing agreements (PSAs) on oil in Uganda. However, the members of the 9th Parliament are making a bid to compel the Ministry of Energy to produce these agreements to Parliament for discussion and debate. In an unprecedented bipartisan move, a section of MPs in the 9th Parliament are in the process of seeking signatures from one third of all MPs for a recall of Parliament during recess to discuss PSAs between the government and private oil companies, including Heritage and Tullow Oil. This follows the widely held view by the public that Uganda has an empty deal and stands to lose from existing PSAs based on the example of the ongoing arbitration case in London between the Government of Uganda and Tullow Oil with regard to taxation of oil proceedings in the form of s capital gains tax equivalent of US$404 million.[18]

3.2. Scope of Exceptions

The ATIA has a fairly narrowly drafted system of exceptions, including a developed set of exceptions to exceptions (Mendel 2008). The exceptions are largely in line with standard freedom-of-information legislation; the law also provides for circumstances under which mandatory disclosure is exempted.[19] Exceptions to

disclosure include several categories of information, including minutes of cabinet and cabinet committee meetings, records of court proceedings before the conclusion of a case, proprietary information relating to privacy, commercial information of third parties, protection of safety of persons and property and other areas, and information whose disclosure could endanger the life or physical property of a person.[20]

Civil society asserts that the exemption for cabinet records, which are accessible only after a minimum of seven years, is a key weakness of the law because policymaking in Uganda is mainly conducted at the cabinet, ministerial, and sectoral levels.[21] Civil society groups also emphasize the importance of having clear guidelines, making the scope of exemptions as specific as possible and subject to the strict tests of *public interest* and *harm*.[22] Exemptions for national security are standard provisions of most RTI laws, but the definition of what constitutes national security and the protection of privacy can be a vast grey area that is subject to abuse by those meant to provide information. The definition of *national security* has been increasing around the world, expanding to cover environmental and economic issues. The fact that the Ugandan ATIA does not limit the scope of the definition of *national security* to a traditional understanding creates a risk for the abuse of the provision to limit information access.[23]

3.3. Procedures for Access

Calland and Neuman point out that much emphasis must be given to the procedures for legal challenge (especially when and if the exemptions are used to shield information). Issues such as mandatory publication of certain information, time limits for completion of information requests, administrative duty to assist the requester, costs for requests and copying, sanctions for failure to comply, reporting requirements, and appeals procedures must receive much greater attention. These practicalities will ultimately determine the value and usability of the law for ordinary citizens (Neuman and Calland 2007).

The ATIA has well-established procedures for requesting and accessing information. The chief executive officers of departments are designated information officers. The ATIA provides for notice and timelines within which information should be processed and responses made (within 21 days) as well as fee schedules. But concerns have been raised about the lengthy timelines, the often complex and protracted procedures to access information, and the potential high costs.[24] Advocates have called for a reduction in the timeline from 21 to 15 days for standard information, fewer days when information is required by journalists to meet deadlines,[25] and a 48-hour turnaround when information concerns the life and liberty of persons as provided under Article 23(4) of the Constitution (FHRI and UPPA 2004).

An analysis of the recently published ATIA regulations[26] further highlights other procedural challenges, including the multiplicity of forms (up to 15 different types) that must be used to access information and the requirement to provide a name and physical address, eliminating the option of submitting an anonymous request.[27] Failure to use the right form does not automatically preclude access to information,[28] but sifting through the various forms and identifying the right one to use for the particular type of information being sought likely adds another step in the process of accessing information, especially given the limited access to the Internet and difficulty obtaining government-printed forms.[29]

3.4. Implementing Regulations

One of the most significant stumbling blocks to the success of the ATIA was the absence of implementing regulations. Section 47 of ATIA provides for detailed rules and procedures for implementation to be laid out. Such implementation regulations are particularly important in the Ugandan context to operationalize several elements of the law and to provide officials with the guidance needed to implement the law and provide the formal rules for due procedure.

Initially, there were several delays in the regulations being issued by the Minister of

Information and National Guidance, according to section 47 of the Act. Subsequently, regulations were sent to the Parliamentary Council in 2008, signed by the Minister of Information and National Guidance, under the Office of the Prime Minister, and presented to the cabinet in February 2009. They were intended to be printed in the official gazette within 60 days and to become operational no later than July 2009.[30] However, the draft regulations were not released by the cabinet for a couple of years.[31] There was no official explanation of why the regulations were not released earlier, but according to civil society groups, it was a result of deliberate stalling by the government. The regulations were finally passed in April 2011, gazetted in May, and published and publicly released in July 2011.[32]

The absence of regulations was not a formal barrier to requests for information; citizens could still request information citing the law, despite their absence. However, government officials point out that for public officials and civil servants, the absence of the regulations, combined with the Secrecy Law still being in force, created a lack of clarity about their obligations, the procedures, and the functioning of the law. On the other hand, the absence of regulations could also be used as an excuse not to implement the law in practice, but rather to continue to exercise a large degree of discretion over decision making and the release of information. Now that the regulations have been published in the official gazette, they are accessible to the public, removing any ambiguity about their content and scope.

The regulations have generally been welcomed by stakeholders and the public and should finally pave the way to wide scale implementation of the ATIA. However, some concerns[33] have been raised regarding their effectiveness in enhancing ATI, given the potentially high cost, procedural complexities (including multiplicity of forms and processes), and lack of guidance for implementing agencies, largely leaving the individual information officers with the discretion to interpret the various provisions. A number of areas identified for further explanation in the ATIA are not expounded on in the ATI regulations, which do not give sufficient guidance to public officials and could cause ambiguity in the implementation of the ATIA. For instance, ATIA Section 47(1)(e) provides for the development of "uniform criteria" for information officers to apply when deciding what records to make available; these have not been developed. The regulations provide for a cost per request, currently set at Shs. 20,000 *per request* to cover the actual cost of retrieval and reproduction. While this fee can be waived in specific instances,[34] it is prohibitively high. There is also the high potential for multiple charges because the fees are assessed on a per request basis.

3.5. Broader Legal Environment

A major challenge to the ATIA remains the archaic and inconsistent laws that are still on the statute books. Unlike global best practices regarding access to information, the Ugandan law does not provide for it to supersede the Official Secrets Act of 1964. The Official Secrets Act entrenches a culture of secrecy in all matters of public administration, with broadly framed provisions that obstruct the free flow of information from official sources. It is also clogged with severe criminal sanctions for infringement of any of the provisions. In sum, this law is disguised as a law to enhance and protect state security, but really serves to limit access to information.

Under the Oaths Act Cap 19, every civil servant, on assumption of office, must take an oath of secrecy against disclosing information received in the discharge of official duties. The Fourth Schedule of the 1995 Constitution also requires such an oath. Article 9(1) of the Public Service Act (1969)[35] and Article 22 (12) of the Education Service Act (2002), criminalize the disclosure of information by public servants (Uganda, 2002a). Even though the ATIA was passed, the existence of these laws on the statute books make it difficult for an information officer who has taken an oath of secrecy to disclose information

to the public.[36] However, it can also be argued that the biggest impediment is not the in the existence of the laws on the statute books but in the attitudes of the public officials set on secrecy who have yet to acclimatize to the new law that requires openness and the sharing of information.

A key attribute of the ATIA is its protection against legal, administrative, or employment-related sanctions for persons releasing information about wrongdoing, including corruption, dishonesty, and maladministration regarding a public body. The Whistleblowers Protection Act was adopted in 2010, and regulations for its implementation are currently being developed by the Directorate of Ethics and Integrity.

The overall regulatory environment for civil society also prevents it from playing a significant or influential role or serving an effective channel of accountability. The relatively weakened position of CSOs is reflected in a regulatory environment that governs their functioning. NGOs operate under the strict legal scrutiny of the NGO Act 2006 and subsequent 2007 regulations. All NGOs in Uganda must be approved and registered by a government-appointed board composed mostly of government officials, including security officials, before they are allowed to operate. The board has used its powers to delay and deny the legal registration of some NGOs that it deems too controversial.[37] The government has deregistered NGOs whose operations it considered excessively political, such as the Uganda Human Rights Education and Document Center (UHEDOC); it significantly delayed registration for the National Organization for Civic Education and Election Monitoring (NOCEM) and the National NGO Forum (NNF). Freedom of assembly has also been restricted; meetings of more than seven people require permission from the Resident District Commissioner.[38]

Similar restrictions characterize the functioning of the media. Media professionals interviewed pointed to censorship measures and limitations of press freedom undertaken by the government in the recent years. They pointed out that, even as the political system seems to be becoming more pluralistic, especially with the multiparty elections in 2006, this has caused the regime to put more limitations on the media. Several laws and regulations curtailing press freedom and imposing punitive economic measures (increasing taxes on news print) have been adopted.[39] Since 1986, at least 40 journalists have been charged with a variety of criminal offences and taken to court; several other court cases are pending. Journalists even claim that private newspapers fear losing much-needed revenue from government advertisements and will engage in self-censorship rather than displease high officials, often giving in to political pressure not to publish information, or to fears of nonrenewal of licenses, closures, or sanctions. All these measures contradict the spirit and letter of the ATIA.

4. Promotion, Capacity, Oversight

Implementation of ATI laws is a challenge in many countries. In the context of implementation in other countries, "Experience has proven that passing the law is the easier task. Successful implementation of an open information regime is often the most challenging and energy-consuming part for government" (Neuman and Calland 2007). In Uganda, this challenge has been particularly pronounced. Unlike in countries such as India and Mexico, where similar ATI laws became an instrument for civil society demanding transparency and accountability from public officials, in Uganda, the promise of the legal instrument remains largely unfulfilled.

The 2009 Global Integrity report says that, of all the countries covered in the report, Uganda, along with Bosnia and Herzegovina, has the biggest "implementation gap," that is, the gap between anticorruption laws "on the books" and the actual enforcement of those same laws. The report points out that in Uganda, auditing and monitoring of the declared assets of elected officials has proven itself to be ineffective despite a strong asset disclosure legal regime.[40]

The implementation gaps have also been highlighted in the recently launched IG Report on Corruption in Uganda (October 2010), an outcome of the Data Tracking Mechanism (DTM) that seeks to track trends and the response to corruption based on national sources, including surveys and audit reports. The implementation gap goes beyond the laws and policies to the enforcement of decisions and implementation of recommendations. An example is the follow up on recommendations in audit reports on the recovery of funds or the sanctioning of implicated officials at the national and subnational levels, such as chief administration officers, head teachers, and medical officers.

4.1. Lead Agency

A specialized ATI implementation oversight and coordination unit is useful in providing clarity of responsibilities, sustained attention to the issue, and enhancing the ability to conduct long-term planning, enabling users to interface more easily with the government and preventing officials with less training and resources from being excessively burdened. Such units are typically responsible for assisting and monitoring implementation, raising awareness about the new right to information, and providing a clear focal point for all efforts.

In Uganda, the Directorate of Information and National Guidance, directly reporting to the Office of the Prime Minister, was placed in charge of ATIA implementation. There are differing views about the value of placing an accountability reform such as this within the purview of the top executive. In general, championship by a prominent official with sufficient seniority, respect, and power can be an important impetus for implementation and a signal to other parts of the administration that there is political will behind the law (Neuman and Calland 2007). Direct oversight from the top of the executive can also be positive, signaling championship and support for the program from the top of the administration (as in Jamaica and Nicaragua); this increases the likelihood of political support and acquiescence by the other ministries. On the other hand, when implementation is spread across line function ministries, as is the case in South Africa,[41] there is a possibility that peer ministries will ignore directives and that implementation efforts will wane (Neuman and Calland 2007).

In other countries, however, keeping the responsibilities for implementing the law within a technical ministry or independent agency has actually provided more autonomy. In India, for instance, the responsibility for implementation is vested in the Department of Personnel and Training (DoPT) because it is the agency in charge of human resources with overall responsibility for

the civil service. While DoPT's engagement with the RTI law has been mixed (and it has resisted reforms to strengthen the transparency regime),[42] DoPT has also taken several implementation measures. In Mexico, the model has been to keep implementation responsibilities in the autonomous Federal Institute for Access to Information (IFAI). When staffed with progressive commissioners, such a model can be the most effective in accelerating implementation, as evidenced by the number and speed of progressive initiatives implemented by IFAI.[43]

The positioning of an organization charged with a mandate to improve accountability throughout the government within the Office of the Prime Minister was an opportunity to mainstream ATIA. But in practice, it seems to have hampered the independence of the directorate to push through the reform process, especially because the political leadership has not been focused on promoting the law.

The staff of the directorate seemed very supportive of the implementation of ATIA; they believe it to be an important element in the attempt to create more transparency in the regime. Interviews with members of the directorate revealed fairly progressive views in support of the ATIA. The directorate spearheaded the drafting of the regulations, developed a National Access to Information Program (ATIP) and issued a memo for the appointment of information officers within public bodies. An implementation plan was developed in 2008 to promote awareness of ATIA, to put in place procedures for accessing information, to cultivate a culture of openness, to build the capacity of the public bodies for effective management, to coordinate and disseminate information, and to monitor and coordinate implementation.

This strategy has not been implemented because of a lack of funding. The directorate is severely under-resourced and has relied heavily on civil society and donor interventions to undertake activities in the past. Workshops, trainings, study tours, and publications have largely been facilitated by civil society in collaboration with the directorate. The OPM[44] indicates that plans are underway to engage ministries, departments, and agencies (MDAs) as well as local governments, using existing resources within the budget and existing platforms while seeking external funding from donors. However, a more consistent approach and funding is required if the unit is to reach out and sufficiently engage stakeholders in promoting the right to ATI.

Civil society groups have also engaged in several promotional initiatives. For instance, the Coalition on Freedom of information (COFI) works with state agencies to promote ATIA through workshops, publications and study tours. Its members—FHRI and Human Rights Network (HURINET)—are represented on the National Committee on the Implementation of the ATIA, coordinated by the Directorate of Information and National Guidance, and run programs of research and advocacy for the promotion of ATI. ACODE has partnered with Green Watch on Training for Judicial Officers in environmental law. The Uganda Debt Network is piloting a project in 11 districts to enhance ATI on budgets, resources, and expenditure at the local level.

4.2. Budget

When the ATIA was enacted, no significant resources were allocated for its implementation. The Directorate of Information, working with other stakeholders, including civil society, has designed a program of approximately 4.5 billion shillings[45] aimed at implementing the ATIA over a five-year period through simplification, translation, dissemination of the ATIA, awareness-raising for the public, and training of public officials, in addition to other activities. But separate resources have not been allocated for this, neither to the directorate nor to individual ministries.

Given the current state of information management In the ministries of education and health, when ATIA becomes operational, enabling responsiveness will require significant funding to streamline information services, overhaul archaic information management systems, restock resource centers, and fund the publication and dissemination of information.

4.3. Staffing, Training

Section 7 of the ATIA requires every public body to appoint information officers within six months of the law coming into effect. Six months after the ATI law was passed, all public agencies were directed to appoint information officers using the formal rules and procedures for appointment and management of civil service personnel and the institutional structure of public agencies.

In 2009, four years after the implementation of ATIA, fewer than 20 public bodies had appointed information officers or public relations officers (PROs). In most cases, staff members are assigned the role of IO or PRO in addition to their other respon-sibilities and oftentimes they are not sufficiently empowered within the organization to access and disseminate information.[46] Currently, the volume and demand for information is low so IOs and PROs are able to juggle their existing work with process requests for information. However, it is likely that with increased advocacy and aware-ness, the demands will rise sharply.

Clear guidelines on the role and profile of IOs and PROs have not been published. Training in information management and public relations work is also very limited. There is a general lack of capacity among information officers. The capacity constraints at the district level include inadequate or nonexistent human resources, infrastructure, equipment, and logistics; this hampers the flow of information and accessibility to relevant policies and documents. In most public agencies, the lack of capacity also relates to the ability to handle document requests.

The Ministry of Education and Sports has re-cruited several officers for collection, publi-cation and dissemination of information, but CSOs claim that this has not made any difference to improving access. Furthermore, there was a perception among the officials in the Ministries of Health and Education, who were interviewed that using the law would create more work for staff that was already over stretched.

Local government districts have also appointed information officers. The law says they should be designated as district information officers (DIOs) for ATIA but it is unclear if any of these have been formally designated to handle ATIA.[47] Capacity building at the district level has also largely been left to the CSOs with little help from the Dir-ectorate of Information. More than 70 DIOs have been trained countrywide,[48] but their orientation is more toward public relations; they need to be oriented toward an ATI regime. While about 20 percent of departments have training manuals, most staff members do not use them or are not aware of their existence.

While senior officials and the people in charge of the resource center emphasized the importance of information and outlined the various measures that had been adopted to facilitate the collection and dissemination of it, they contended that some information should be kept secret from the public. Civil society groups point out that it is the information that is not in disclosed documents that is significant. “Sensitive” information, particularly the kind that would enable the exercise of oversight and accountability is not available.[49] Civil society groups also point out that at the district level, education officers do not share information with interested parties.[50]

4.4. Records Management

The Department of Records Information Manage-ment in the Ministry of Public Service is mandated with overseeing records management country-wide, providing support and advisory services to registries in MDAs and to local governments, developing regulations and procedures for records management, and training the staff of registries in record management.

Interviews with the officials of these various ministries revealed a lack of clarity with regard to the responsibilities of the different institutions and the perception of fragmentation of institu-tional responsibilities for the management, storage, retrieval, and dissemination of infor-mation. The Ministry of Public Service is con-sidered to be in charge of records management and storage, while the Ministry of Information and National Guidance is in charge of retrieval and dissemination.

The state of records management is very weak in the central government ministries and agencies and probably worse at the local governmental level. The capacity of records staff within MDAs and at the local government level is weak. Documents that have historical importance have almost been destroyed because of poor storage. There is no defined strategy for archiving and disseminating information at the local government level. The country's telecoms sector policy review (UCC 2008), sanctioned by the government, concluded, "almost all ministries, departments and local governments lack the infrastructure required to deliver anything apart from rudimentary e-Government services."[51]

In individual departments, the capacity to manage and maintain records varies. The Ministry of Health (MoH) is attempting to put a large number of its resources online, but the Ministry of Education's resource center, which houses much of the ministry's information, is poorly resourced and lacks adequate space and efficient management. Fragmentation of information across departments also makes retrieval difficult. Information on funding is in the finance department; statistics on teachers, schools, facilities, and students are in the Department of Education Planning. While these departments are supposed to provide copies to the resource centers for easy access, information is still kept on office shelves, not at resource centers. According to education and health CSOs interviewed, the resource centers contain obsolete information. For example, an information request by the Africa Freedom of Information Center (AFIC) to the Ministry of Education with respect to the teacher transfer policy, student admissions, and enrollment was had not yet been responded to eight months after the information request was made.[52] Capacity constraints on records management are magnified at the district level, where most of the information on community development is kept.

The World Bank is supporting the construction of a national archive in Kampala with a records storage facility worth approximately US$10 million.[53] In addition to constructing the center, the World Bank will provide institutional support, including developing a records policy, strengthening capacity of staff to manage the archives and operationalizing the archives through the provision of equipment, such as scanners, and furniture. The World Bank is currently providing ongoing support to archive existing documents prior to the center's construction.

4.5. Information Technology

The deployment of information technology for information management and sharing is relatively limited, although promising applications are emerging for the electronification of information and for information sharing between different departments. The Ministry of Health has introduced a number of initiatives to introduce information technology in the management of information and makes available a large set of data—both through publications and electronically, including information on budget flows and expenditures at the local level. The establishment of the Health Management Information System has increased the level of information sharing among different institutions and organs in the sector.[54] The education sector has also undertaken reforms to harmonize information sharing between the Ministry of Education and the districts that, under decentralization, are now key players in the provision of education in Uganda (Ablo and Reinikka 1998; Hubbard 2007). The introduction of the Education Management Information System has been instrumental in harmonizing the available information at the central government, district, and school levels about staff, student enrollment, and facilities.

But several challenges remain, including the need to provide regularly updated information to enhance the utility of generated data, to overcome weaknesses in reporting and acting on information generated, and to enhance credibility and timeliness of data and information generated. For example, in 2010, a senior official in the MoH was arrested and charged with drawing money to prepare progress reports and then providing information drawn from previous reports. A final challenge is the high cost of implementing management information systems based on cost of equipment (software and hardware) and extending them to the local level. As information systems are further developed, a key challenge that will likely emerge is to make this information user-friendly and accessible to citizens.

4.6. Monitoring

Under Section 43 of the ATIA, ministers are required to submit an annual report to Parliament on requests for access to records or information and responsiveness. No public body has come up with a manual or presented an annual report to Parliament in fulfillment of the requirements of the ATIA, and Parliament has not asked for either these documents or information. Most ministries do not keep records of the types of information requests received or their responses to them. No MDA has prepared a report on implementation of the ATIA as required under law. Hence, no submissions have been made to Parliament by the ministry as the responsible entity. In the interview with the director of National Guidance and Information, she indicated that it was not possible for MDAs to present reports because there were no regulations and hence there was no official tracking of information provided to the public. She also noted that while officials did indeed provide information, it has not been possible to track and collate data to provide a report to Parliament because this information was often provided informally. There are some emerging civil society initiatives in this area. For example, HURINET has established an ATI monitoring tool that is a self-generated system with slots showing those allowed or denied ATI.

5. Enforcement and Sanctions

An independent appeals and enforcement mechanism is considered critical for the effective implementation of ATI laws, legal provisions that guarantee "a right to appeal any decision, any failure to provide information, or any other infringement of the right of ATI to an independent authority with the power to make binding and enforceable decisions, preferably an intermediary body such as an Information Commission(er) or specialist Ombudsman in the first instance with a further right of appeal to a court of law" (Carter Center 2000). Although countries vary in the design of their enforcement mechanisms, there is a growing recognition that the optimal system should be independent from political influence, accessible to requesters without the need for legal representation, affordable, timely, and staffed with specialist commissioners because ATI laws are complex, requiring delicate public interest balancing tests.[55] There are different models for enforcement in different countries.[56]

Under the model of direct judicial review, which, in addition to Uganda, is used in countries such as South Africa, Bulgaria, and at the federal level of the United States, when a request for information is denied, the requester must appeal directly to the judiciary.[57] Courts have the power to order the release of information if it has been inappropriately denied, possess wide-ranging powers of investigation, and have clearly established mechanisms for punishing agency noncompliance. But high legal costs, case backlogs, and a lack of specialist knowledge make a direct appeal to courts on administrative matters a difficult proposition, especially in countries where the judiciary has capacity constraints and courts are inaccessible to most citizens. In such instances, the deterrent effect that courts often play is minimized and may actually encourage a perverse incentive among some civil servants to ignore the law or arbitrarily deny requests. There might also be a lack of trust in a judiciary that may not yet have matured into a strong, independent branch of the state.

Independent commissions or appeals tribunals (such as in India and Mexico) usually have the power to issue rulings and binding orders. Appeals to such bodies are more accessible and affordable because there is no need for legal representation and no court costs or other fees, and in the best cases, it is highly independent. This system can allow decision makers to become ATI specialists. With the power to order agencies to act or apply sanctions, this model serves as a deterrent to the government and can alleviate the need for further court appeals. Binding decisions are issued through a written ruling, which in mature jurisdictions creates a body of precedent that can guide future internal agency and commissioner decisions and facilitate settlements. In some instances, information commissions or ombudsmen have more limited faculties for enforcement (such as at the federal level in Canada, Hungary, Sweden, and New Zealand) and can only issue recommendations to the relevant administrative agency or public functionary.

5.1. Appeals

The Ugandan ATIA provides for appeals against the denial of information—not to an independent appeals tribunal, but to the courts. ATIA provides for aggrieved persons who have been denied information the option of appeal to the Chief Magistrate and subsequently to the High Court. The law also provides courts with the right to inspect public documents and take remedial action. The rules committee of the judiciary is required to make rules of procedure for the court within six months of the commencement of the ATIA. To date, these rules have not been made, because of which the assumption is that the normal court procedures apply.

Box 5.1. The Tullow Oil Case

In 2009, senior reporter Angelo Izama and Charles Mwanguhya Mpagi of Uganda's leading independent newspaper, *Monitor*, filed a case to appeal the refusal of Uganda's attorney general to provide them with certified copies of oil exploitation agreements because of alleged confidentiality clauses in the documents, according to news reports.[58] The journalists argued that the information was of public interest: Ugandans must be able to hold the government and its partners accountable for the exploitation of the oil.

However, Chief Magistrate Deo Ssejjemba said in his ruling that the petitioners had not proved either the benefit of disclosing the information to the public, according to news reports. The journalists, along with their partners the Open Society Institute's East Africa Initiative and HURINET, intend to appeal the ruling.

Civil society groups pointed out that the Ugandan judiciary has several weaknesses. The lengthy judicial process discourages citizens from using the courts as a means of redress. Several critiques and reports have been issued and many see the judiciary as not being independent of political influence.[59] The funding allocated to the judiciary has been steadily scaled down since 2003, which has forced the courts to scale down their operations up to 60 percent in some respects (IBA 2007). Challenges to governance in the judicial system, lengthy trial processes, poor staff capacity, financial constraints, and current case backlog levels within the courts are all deterrents to the effective enforcement of ATIA.[60]

The implications of this are yet to be tested because the record on requests for information is very limited. The record of judicial appeals on one high profile case—that of Tullow Oil and more broadly on accountability issues—shows that the appeals process to the judiciary is problematic and that the judiciary does not have the specialist technical capacity to address ATIA issues.

According to civil society members, this case demonstrates that the judiciary, especially at the lower level, does not have specialized capacity to interpret the ATIA. When the ruling is appealed in the High Court, it may have a different result because it tends to be more independent and have better technical capacity, but such appeals are unlikely for regular ATIA requests.[61]

Views have been divided in Uganda about the feasibility and desirability of an independent agency. The experience of some of the other nonexecutive institutions like the Uganda Electoral Commission, the Parliamentary Accounts Committee (PAC), the Inspectorate of Government UHRC, and the Auditor General, the fairly advanced level of technical expertise, and the independence displayed by these organizations suggests that an independent agency could be a good solution. But some interviewees suggested that a proliferation of independent agencies is not an ideal solution for a capacity-constrained state.[62] There is a partial ban on establishing new public or oversight bodies due to resource constraints; the other investigative and oversight bodies are also under-funded, lack capacity, and are not fully independent, as demonstrated by several instances of interference of their operations by the executive. Most agencies also lack the power to prosecute; that function rests with the Directorate of Public Prosecutions. But the low rate of prosecutions and the failure to check large-scale corruption by senior political figures has eroded the legitimacy of these institutions (HURIPEC 2011).

One suggestion advanced was that existing institutions such as the Uganda Human Rights Commission or the IGG could integrate this role within their functions. The Inspectorate of Government Act (2002, Act 5) provides the Inspectorate with powers to enforce the Leadership Code of Conduct and "summon any person, who in the opinion of the Inspectorate is able to give information … and to furnish and produce any documents, papers or things that

may be in possession or under the control of that person.[63]

The law also provides for both sanctions and penalties—both financial and imprisonment for denying access, destroying, altering, concealing, or falsifying information.

5.2. Sanctions

The ATIA[64] provides for sanctions for officials who intentionally denies a citizen with the right of access under the law by destroying, damaging, altering, concealing, or falsifying a record; committing such an offense makes the official liable to a fine not to exceed 240 currency points imprisonment not exceed three years, or both. But to date, no public official has been charged in a court of law for denial of the right to access information.

An interesting twist to this however, could be evidenced with the unfolding events in the 9th Parliament. An unprecedented move has been made by MPs led by the chairperson of the Parliamentary Forum for Oil and Gas[65] and the Shadow Attorney General[66] to compel the Attorney General of Government to bring oil PSAs that the government signed with exploration companies to Parliament for scrutiny. At least 163 signatures have been collected from MPs to call for a special session of Parliament, which is currently on recess (under Article 95 (5)) to discuss these agreements. After a protracted and heated debate, the Speaker finally bowed to pressure and has recalled Parliament to discuss the issues raised in the petition on October 10, 2011. Copies of the PSAs have also been provided to the members of the Parliamentary Legal Committee for scrutiny.[67] While this is not a sanction as envisaged under the ATIA, e the scenario is still unfolding, and it is unclear what direction it will take, this action by Parliament could provide another avenue for compelling public officials to provide ATI, especially in sensitive matters like the oil agreements.

6. Compliance

6.1. Proactive Disclosure

The law contains only a limited regime for proactive or routine publication of information. It provides for mandatory publication of some information, including a manual of functions and an index of records of the public body within six months of the coming into force of the ATIA, automatic availability of certain records every two years, and publication of general information about the organization in existing directories. District officers have an obligation to accurately, regularly, and consistently document and make available information on planning, budgets, and expenditures.

Civil society interviewees felt that two years for publication of several records is excessively long, and ongoing disclosures and shorter interval periods for mandatory proactive disclosures are needed. However, even the limited provisions of the ATIA on proactive disclosure have not been implemented in practice. Although government departments are making advances in the management and dissemination of information, as evidenced by the experience of the health and education ministries,[68] systematic disclosure of the documents mandated by ATIA has not happened. The ministries have not set in place systems or mechanisms to be responsive to the 2005 ATIA *per se*. In fact, awareness of the ATIA and any measures toward systematically implementing it have been so poor that the information management and dissemination activities within individual departments and ministries have largely been developed quite separately from the ATIA.

6.2 Requests and Responsiveness

It is useful to distinguish between two kinds of information. The first is personal, routine information that people demand on a day-to-day basis. Much of this information is routine, nonsensitive, and does not require a legal instrument such as ATIA to make it available. In fact, this kind of information might be more dependent on the capacity of agencies—in terms of information technology, skills, quality of personnel, and an overall culture of serving citizens and being responsive. In such cases, the formal legal instrument could, in theory, provide a tool for civil society groups to hold officials responsible for performance and responsiveness. The second kind of information is more sensitive information—information that could potentially reveal instances of corruption or other forms of the exercise of discretionary authority not in the public interest.

The institutionalization of RTI laws does provide access to the type of information that might otherwise be out of the public sphere. The critical question to ask is not simply if more or less information is available in the public space, but if the information necessary for civil society groups to effectively monitor and oversee public officials is easily available and if the absence of access to this information is proving to be a critical, binding constraint to the accomplishment of development objectives, such as, for example, the transparent and efficient awarding of contracts in the road sector or information about entitlements to services.

The evidence from Uganda shows that the passage of ATIA itself has not stimulated more requests for information. Both in-depth interviews conducted during the research as well as other studies demonstrate that responsiveness to information requests continues to be a challenge. Although it used a very small sample size, a study conducted by HURINET in 2010 showed that of the survey participants who had requested information from a public institution, such as from the police, the local government, or the Ministry of Education,[69] as many as 70 percent had not received a response.

Some CSO interviewees contended that more than 50 percent of Ugandans requesting information about resource allocations, local government affairs, or cases with security agencies get turned down.[70] The HURINET study suggests that a majority of the respondents—71.2 percent—got their information within 21 days, which the law requires, but CSOs point out that

this is atypical; citizens usually have to face lengthy delays in getting access to information.

With support from the Open Budget Initiative, the Uganda Debt Network (UDN) also carried out a study floating requests. It filed five requests to different ministries: Finance, for aid from different donors and when these were approved—Global Fund and USAID; Health, for information on expenditures on drugs, that is, how much was budgeted for drugs, what percentage of the drugs were imported and when, and whether or not the correct drugs were being received; Water, Environment, and Energy for information on oil subsidies given to private investors; and Mineral Development and Education. The overall conclusions of the study were as follows.

- ***Control over information has payoffs associated with it.*** Both interviews and the HURINET study suggested that often information officers stalled when releasing information, claiming the need to get "authorization" from a superior—really a ploy for bribes, the paying of which would get the information released. Officials used many ways to delay information requests, refusing information based on procedural reasons, including formal request letters and identification cards; administrative reasons, including Information not in work plan of the government; information still in raw form; restrictions, like confidential or classified information with security implications; and claims that the same information is available in the newspapers so there was no need "to burden us with something already known."

- ***There is a range of information that is considered "sensitive" and not easily disclosed.*** Interviewees—both government officials and CSOs—agreed that "sensitive" information is usually not disclosed or its release is delayed pending approval from higher authorities. Interviewees highlighted different kinds of information that usually comes into this category: expenditures; information on the establishment or presidency, the state house, the army or security organizations; recruitment procedures and criteria for appointment to key positions;[71] reports of commissions of inquiry; road contracts; oil contracts, such as Tullow Oil; public accounts committee reports; minutes of the Presidential Appointments Committee, Parliamentary Commission, or the committees of Parliament where proceedings are closed or held in camera as provided for under the Parliamentary Rules of Procedure.[72] Some expenditures, such as by MPs for the Constituency Development Fund, are not openly published but are available on request.[73] On the other hand, many categories of information are easier to access, such as the national strategic plans for HIV action and national health policy information.

- ***There is divergence in the ministries in terms of responsiveness and willingness to share information.*** Interviewees suggested that the Ministry of Defense and the State House are completely closed off from the public. In the UDN study, requests were sent to different levels of the finance ministry over a five-month period with no response. The Ministry of Energy was the only one that acknowledged receipt of the request. The Ministry of Health was the worst in responding and in the end, access to the requested information was denied. The Ministry of Education provided the information requested; it is seen as having more of an open door policy. Most of the information is available on the websites, except information on contracts.[74] It is also easier to get national level information than it is to get district- or local-level information.

- ***Capacity and awareness constraints can lead to the withholding of information.*** Some CSOs pointed out that the withholding of information is not always deliberate, but is instead due to a lack of capacity, efficiency issues, and resource constraints.[75] Public officials are often unaware of the law, and because they do not understand it and its relationship to their work, they have reservations when it comes to giving out information, with the standard question of what the status of the requester is in demanding this information.[76] Delays in other governance processes can also be a constraint. Audits are two years behind schedule and they cannot be used because they have not been

passed by the cabinet yet. The Auditor General's Office is understaffed and overworked, and PAC has to discuss audits before it can release the information to the public.[77]

- ***Accessibility depends on personal networks*.** In the course of the research for this paper, several NGOs were interviewed, most located in Kampala, including several service-delivery NGOs working closely with the government, and fulfilling particular functions of delivering services. Service-delivery NGOs encompass a wide range of areas, including education, health, poverty reduction, and gender equity. NGOs mainly exist as service providers and, to a large extent, are either the government's partner in implementing its programs or fill gaps in service delivery. The nodal coalition of health NGOs—UNHCO—sits on the Health Advisory Committee and has access to policy making. For other smaller NGOs, there are limitations to their ability to access information.

  Other NGOs pointed out that information is not easily accessible in the absence of strong personal networks with public officials. Organizations such as the ACCU have floated numerous requests using the ATIA, writing to the Ministry of Education, Energy, and Health using RTI request forms. ACCU contends that the ministries have stonewalled with a lot of back and forth communication but no information. Health Rights Action Group (HAG) tried to ascertain if drugs intended for districts had actually reached them but was not able to find any information on this, although HAG's contention about this was refuted by the Ministry of Health.[78]

- ***Even when information in available, it is not always easily accessible.*** Dissemination is hampered because the number of copies available is limited, copies of documents are large, and soft copies of documents are not available or they are difficult to upload. They are often too technical and irrelevant to the request, and statistics are often difficult to grasp.[79]

- ***Awareness continues to be a problem.*** Interviewees suggested that awareness about the law is very low. Most of the CSOs consulted, and even government officials charged with implementing the law, pointed out that the public's awareness of the law was poor. Although the HURINET study is a very small sample, it confirms the relatively low levels of awareness—only a small percent of the respondents knew about the law. Interestingly, respondents also did not know where to seek information, who to approach, or the procedures for getting information.

Although the study did not look in detail at the information-sharing mechanisms at the local level, in an interview, the local chapter of Transparency International recounted that they had requested information from the Kampala City Corporation (KCC) about the state of the road repairs in Kampala. Transparency International was asked to provide evidence that they were citizens of Uganda, had to write twice before getting a response from the relevant person, and the whole process took nine months.

Even when budgets are displayed, communities find it a challenge to interpret figures. The main problem with accessing information is that even when it is given, it is rarely in an accessible form that can by easily understood by the general public, such as contract information.[80] At both the national and local levels, it is difficult to get disaggregated data on expenditures.[81]

Civil society groups pointed out that, at the local level, there is incomplete data on the flow of funds because not all funds expended in the health sector are channeled through the government budget or reported. There are still several challenges to accessing information and local participation in health relating to capacity gaps, the lack of consistency in gathering, documenting, and disseminating vital health information. Regarding health, information on procurement is very difficult to acquire.[82]

Box 6.1. ATIA and Accountability

Various other examples from Uganda suggest that enhanced levels of transparency can lead to greater accountability and better outcomes, including the classic case of the Public Expenditure Tracking Surveys, where publication in newspapers of school expenditures led to an increase in the percentage of the funds allocated to schools actually going to them (Reinekke and Svensson 2005).

More recent examples of civil society groups holding officials to account have also emerged. In Katakwi, community monitors acquired information around procurement related contracts in the district and documents about the substandard work on roads and schools as well as breaches of contracts.[83] In Mpigi, village health teams demanded that staff at medical centers work their full hours because of the information they had received on mandated working hours. They were also able to begin to register the staff at the heath centers and to monitor drug use, allocation, and supplies through access to drugs stock lists.

7. Analysis

While the establishment by law of a formal *right* to information is already a significant principle, the existence of the law has not caused either an increase in transparency or in accountability. The various cases cited by civil society groups show that, unlike in countries such as India and Mexico, CSOs have not even been able to get responses to their ATIA requests, much less use this information to force the government to be held to account.

The implementation of ATIA seems to come from a minimal or partial commitment from the government, a lack of demand from civil society groups, and governmental capacity constraints. Some public officials still pay more allegiance to the secrecy oaths taken upon assumption of office than to ATIA or to the Whistleblower's Act, and fear releasing embarrassing information that could lead to sanctions. Further, an assessment of the gaps can only be made on a case-by-case basis, sometimes determined by whether or not individual officers are willing to give the information or whether or not they have capacity to do so.

The lack of capacity can also explain the gap between the law and its implementation. Getting information is an arduous task that takes time, especially when those charged with it are ill-equipped and poorly trained to handle requests, and when there are no systems in place to process the information.[84] The passage of RTI laws might have strong incentives associated with them; the adoption of them tends to have high visibility and high profiles. Implementation, however, does not benefit from the same political incentives. While passage of a law can be driven by several factors, implementation is likely to be conditioned by more fundamental factors, especially the capacity of CSOs to meaningfully engage with and influence state institutions. In fact, over the last five years or more, there seems to have been a backward slide with regard to accountability relationships. Limited avenues for continued pressure, limited capacity, and other factors have meant that there has not been a sustained momentum for implementing ATIA.

Role of Political Commitment. The commitment of the NRM to improving governance in Uganda facilitated the introduction of several reform initiatives. In its initial years, the NRM was responsible for opening up the space for better information flows. Movement politics was about consensus and the need to engage in a participatory process. Technocrats had more powers and were given a great deal of leeway to deal with issues. Robinson points out that the initial successes in key governance reforms eventually translated into a loss of momentum or reversals of gains in the face of the imperative of what he calls "regime maintenance."[85]

This explanation seems to be applicable to the experience of implementing ATI reforms as well. The incentive for sustaining reform momentum was strong when there were political payoffs (in terms of the regime's progressive image in the run up to the 2006 elections). In the aftermath of 2006 election, the government became more guarded about ATI. Since the multiparty elections, however, it has created more restrictions, and the impetus for disclosure appears to have weakened.[86] The move to multiparty elections and the removal of presidential term limits that resulted in a change the constitution have come with the tidal change backwards. NGOs claim that this has to do with regime maintenance and the survival of the NRM in power.[87] The key lesson from this is that continued political will and political championship is important in maintaining the momentum for reform.

The nature of state–society relations. RTI laws have emerged from different sources—some with state sponsorship, as in Mexico; some as part of larger democratic movement or historical event, as in Eastern Europe and South Africa; and some as part of grassroots movements, as in India—but the experience across countries demonstrates that the momentum for implementation of reform has been most effectively sustained in countries with a strong foundation of civil society groups. The Ugandan case, especially when cast in comparison with RTI regimes in other country contexts, shows that the relative capacity and

influence of civil society is a necessary condition to make RTI laws effective accountability instruments.[88]

In countries where civil society played a significant role in advocating for the law and lobbying around the key provisions, the information regimes have worked better; examples include South Africa, Bulgaria, India, Mexico, Peru, and Jamaica.[89] On the other hand, in countries where civil society was not engaged in the debate, the right to information has atrophied and the laws have not been fully implemented.[90] In Uganda, the passage of the law was eventually state-sponsored, and civil society groups had relatively little influence on its final passage, even though they did bring a bill to Parliament prior to the state-sponsored law going into effect. The passage of the law derived from other political and international considerations by the regime, as discussed in section 2, rather than being reflective of civil society influence over the policy process.

Although there are very strong advocacy groups that continue to push for the implementation of ATIA and for amendments that would plug some of the most important gaps in the law, for the most part, the government sees these NGOs as strongly antagonistic to the regime rather than as legitimate and important actors in a participatory governance space. HURINET, AFIC, and FHRI are three of the most prominent NGOs working on ATI. Other NGOs, such as ACCU, UDN, and ACODE are very active in the anticorruption and broader accountability space. These groups have coalesced around the ATIA. COFI,[91] which is coordinated and hosted by HURINET is forging links with similar advocacy groups in other countries, keeping an active media presence, and undertaking advocacy and awareness workshops. In some instances, they work in close collaboration with the Department of National Guidance, organizing joint workshops, but overall, governance and accountability NGOs are only able to exercise limited influence over policy reform.

The capacity of civil society groups is also constrained. Most CSOs, except the larger and more prominent ones, have capacity constraints that hamper their ability to meaningfully participate and understand technical issues and key policies.[92] Activism on this issue seems to be largely restricted to these more prominent NGOs in the capital. This study did not go to the district level, and was not able to assess levels of awareness about the law at the district level. However, discussions with CSOs based in Kampala, many of whom are also active at the district level, revealed that information problems are even more challenging at this level. Clearly, civil society activism has not translated into the kind of social mobilization that has occurred in India. In India and elsewhere, the widespread popularity of RTI as a tool for empowerment has led to sector-specific NGOs—and NGOs across the countries also working in this area—to actively mobilize citizens. Poor literacy among citizens and a belief that information and power are the state's preserve further exacerbate the problem.

CSOs pointed out that civil society activism and free media are relatively new in the country. Community monitoring is a challenge because people are uncomfortable with holding authority figures or leaders to account. There is the need for a mind shift that will allow for the creation of grassroots pressure to hold leaders accountable. People need to be able to embrace the idea of *rights*, and this is difficult because of Uganda's history.[93] Lastly, the capacity investigative journalists, especially at the regional and local levels, is limited.

Politicization of ATIA. Interestingly, championship of the ATIA, both by media and prominent civil society groups that the government considers antagonistic, has led to the politicization of the ATIA, which is seen as a political rather than a developmental tool. Like civil society, the media are highly polarized. Some media outlets are seen as being very close to the regime, while the regime has a very antagonistic relationship with other media outlets. The media has played a role in raising or flagging critical issues around ATI, highlighting cases, popularizing the ATIA, and petitioning Parliament to operationalize the law through the passing of regulations. But ATIA has come to be seen as a media issue, as an instrument that can be misused by the opposition and by a belligerent and antagonistic media. Interviews revealed that the law is seen much less as a service delivery issue, and service delivery NGOs tend to be distanced from the potential of

the law as a tool to get critical information that would make service providers accountable.[94]

The bureaucracy has very little independence to push through reforms. The bureaucracy follows the lead of the political class. Unlike other reform measures, ATI reforms were not left in the hands of technocratic or independent officials. The lack of momentum from the top has translated into bureaucratic inertia with regard to the implementation of the law. A lack of capacity and resources among information officers to translate the law into the efficient and timely release of information, especially at the district level, has been another constraint. The absence of regulations has created lack of clarity about the content or details of the law, the process for its operationalization, and the responsibilities of the different agencies under it.

The informal norms in the bureaucracy lean toward secrecy and control over information. Several interviewees pointed out that the bureaucratic culture is one of secrecy and control over information. The bureaucracy is underpinned by a very strong top-down culture[95] with a hierarchical decision-making structure. Typically, information requests must be channeled through the permanent secretary. The overall implementation of the law is vested in the chief executive officer of each public body,[96] who is required to maintain a manual which includes the nature of all informal and formal procedures available to facilitate a request for information.[97] The standard practice is for technical officers to seek permission before releasing any information, especially "sensitive" information. Chief executive officers, particularly, the permanent secretaries of ministries, should be systematically engaged[98] to participate in the design and implementation of reforms aimed at improving ATI at the institutional level.

8. Conclusion

The key lesson that can be drawn from the implementation of ATI reforms in Uganda is that successful implementation requires continued momentum and push from the top of the political leadership and the building of capacity. But, it also requires a progressive expansion of space for civil society action, especially for those engaged in the governance area.

There is some debate in the literature about whether or not it is useful to adopt legal instruments like the ATIA if the capacity for full implementation is not present. Uganda, set in a comparative perspective with other countries in the region, demonstrates that when there is a window of opportunity, it is very important to get a law passed. Most other countries in the region have had long struggles in their attempts to get the RTI legislation passed. Liberia and Nigeria have only recently managed to get RTI laws on the books. While not fully implemented, the existence of the ATIA has formed an important locus for an interaction between civil society groups and the government and a platform for advocacy by civil society groups.

The presence of the ATIA means that Uganda is already several steps ahead of its African counterparts in terms of this critical accountability mechanism. However, it will be important to take several measures in order to realize the potential of this legal instrument, and to move toward greater transparency and more openness—key elements for improved service delivery. These would include the repeal of the Secrecy Law; the development of training programs for information officers; the employment of officers with some knowledge of the law or who are trained to handle legal requests; and enhancing district-level capabilities.

The prospects for the implementation of regulations for ATIA or for a major implementation initiative look difficult in the immediate (pre-election) term. But, as part of the broader governance agenda, some potential avenues of support could be considered in the medium term, as follows.

- ***Supporting ATIA as part of Sectoral Social Accountability Initiatives.*** Awareness about the ATIA could be usefully integrated into other initiatives and programs on social accountability, undertaken in the sectors or as part of a larger governance initiative. Greater awareness and use of ATIA as a tool to request information could provide an important channel of pressure on the government to become progressively responsive and to undertake implementation measures. It can also serve as a means of strengthening civil society awareness and understanding of their rights and entitlements under the law and to serve as a catalyst for greater participation and involvement by civil society groups.

- ***Institutionalizing the Law.*** Second, it is important to continue to push for the institutionalization of the law: putting the necessary regulations in place and passing amendments to so it would supercede the Official Secrets Act.

- ***Support for the Directorate of Information's Implementation Plan.*** The Directorate of information has prepared an implementation plan with a focus on training. Even though the political will to take on this set of reforms seems to be limited at this time, the Directorate includes some very progressive officials. It is possible—perhaps in conjunction with development partners—to support awareness-raising and training activities to create the capacity and momentum for the implementation of the law. It might be useful to explore how such capacity-building measures could be supported as part of broader governance initiatives.

- ***Working at the Local Government Level.*** There appears to be a fairly significant constraint to information at the local level. The study was not able to go to the local government level, but most stakeholders interviewed pointed to this as an issue. It would be useful to look at the constraints to both information access and accountability at the local government level and to assess the possibilities for strengthening these systems at the local level.

- ***Parliamentary Monitoring of ATIA.*** While, to date, the courts have not been proactive in interpreting the provisions of the law, the 9th Parliament is increasingly looking to the courts as an avenue through which efforts to promote ATI could be realized. It could be a very positive and productive step to integrate efforts to monitor the ATIA by Parliament into this process.

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List of People Interviewed

Ahimbisibwe Fortunate—Information Officer, Ministry of Education

Ariso Lilian—Assistant Commissioner, Ministry of Public Service

Baku Raphael Obudra, Acting Inspector General of Government

Banyenzaki Henry—Member of Parliament

Biraahwa Sylvia—Directorate of Information, Office of the Prime Minister

Galiwango Annie Sybil, Dir. of Education, Kampala City Council

Kagaba Cissy—Executive Director, Anti-corruption Coalition of Uganda

Kaitiritimba Robinah—Coordinator, Uganda National Health Consumers Association

Kakanda Margaret—Budget Monitoring Unit, Ministry of Finance

Kamukama Mary—Health Rights Action Group (HAG)

Kalembe Monica—Directorate of Information, Office of the Prime Minister

Kaweesa Helen—PRO, Parliament

Kiapi Sandra—Exec. Director, Action Group for Health, Human rights and HIV (AGHA)

Kiirya Geoffrey David, Principal Information Scientist, Ministry of ICT

Kitutu Kimono Goretti—Information Specialist, National Environment Management Authority

Kizito Louis, Commissioner, Ministry of Public Service

Kutegeka Sophie—ACODE

Maja de Vibe, Governance Advisor, DFID

Mugyenyi Onesmus—Dty. Exec. Director, ACODE

Muhumuza Simon—PRO, City Council

Mukooyo Edward, Asst. Commissioner, Ministry of Health

Mujune Vincent—Operations Manager, Basic Needs

Muwanga John—Auditor General

Mwesigye Frederick—Coordinator, Forum for Education NGOs in Uganda

Nakalumba Sylvia—Director, Ministry of Justice

Naker Dipak—Co-Director, Raising Voices

Nanjobe Martha—Sr. Program Officer, Uganda Debt Network

Nanyonga Annette—Ministry of Education

Nkata Derek—Program Director, Link Community Development

Omare Okurut, Uganda National Commission for UNESCO

Runuumi—Commissioner, Planning, Ministry of Health

Sebagala Geoffrey—Human Rights Network for Journalists

Sendugwa Gilbert—Africa Freedom of information Center

Ssekadde Willington—Program Officer, Raising Voices

Ssewakiryanga Richard—Exec. Director, Uganda National NGO Forum

Sewanyana Livingstone—FHRI

Tumwine Peter—Research Officer, Human Rights Network (HURINET)

Wangudi Moses—Health Rights Action Group (HAG)

Notes

[1] The other three are South Africa, Zimbabwe, and Angola.

[2] These include HURINET, FHRI, and UDN.

[3] As appeared from the interviews with many civil society groups conducted during this research.

[4] Case studies include: India, Mexico, Romania, Albania, Moldova, Peru, and the United Kingdom.

[5] www.transparency.org. Uganda's neighbors Rwanda and Tanzania fared better in the ranking at 66th and 116th and with scores of 4.0 and 2.7 respectively, while Kenya and Burundi fared worse with rankings of 154th and 170th and scores of 2.1 and 1.8, respectively.

[6] Uganda has a relatively strong legal framework ranked at over 90 percent but a poor implementation gap, with over 50 percent of the laws unimplemented.

[7] This sectoral variation in implementation dynamics is evident in both the Uganda case study as well as other case studies, including India.

[8] Movements have been active in Kenya, Nigeria, Ghana, Zambia, and Tanzania.

[9] Liberia and Nigeria are the latest two to adopt such laws.

[10] More than 20 newspapers have begun since 1986. The broadcast media has been freed of state control and monopoly, and political commentary is widely tolerated. A number of publications and media outlets are very strident in their criticisms of the government.

[11] But challenges to his rule had already begun to arise, with Kizza Besigye, his one-time ally (and private doctor) winning 27.7 percent of the vote.

[12] Hon. Abdu Katuntu, Member of Parliament for the opposition, Bugweri County, Busoga Region.

[13] Perceptions held by different sections of the public, including civil society groups interviewed.

[14] Freedom of Information: A Comparative Legal Survey, by Toby Mendel, 2nd Edition—Revised and Updated, UNESCO Paris 2008.

[15] In 2008, a joint team of government and civil society representatives with the support of the Open Society Initiative EA, visited South Africa to study the implementation of the freedom-of-information legislation. A key lesson learned was that in South Africa, stakeholders opted to implement the law as it was for a number of years before seeking reforms. See HURINET (2008).

[16] See Babalanda (2009); FHRI and UPPA (2004); Article 19 (1999). See also, Mendel (2008).

[17] Interview with AFIC.

[18] A tax dispute arose in 2010 following Tullow Oil's announcement that it would purchase 50 percent shares owned by its partner Heritage Oil in two oil exploration blocks in the Albertine Grabine in a deal worth US$1.5 billion. The GoU claimed US$404 million in capital gains tax but an impasse was created when Tullow Oil refused to pay. Following negotiations and a hard stand taken by the Government of Uganda, Tullow Oil finally agreed to settle part of the claim amounting to US$121 million, and placed the balance of US$283 million in an escrow account in London pending the outcome of arbitration there. Also see http://www.independent.co.ug/business/business-news/4036-tullow-oil-deal-empty-victory-for-uganda.

[19] Section 34.

[20] Other exceptions include information that do or could impair the security of building, structure or system, or means of transport and information that would deprive a person of a right to a fair trial.

[21] Views expressed in discussions with various stakeholders. Also see FHRI (2005).

[22] Sebagala (2009). Note that the current case of Uganda vs. (former vice president) Prof. Bukenya in the Anti Corruption Court could potentially set a precedent with the Cabinet Minutes and Memos for the CHOGM subcommittee, having to be adduced as evidence in court. Prof. Bukenya is charged with two counts of abuse of office and flouting procurement regulations as chair of the GHOGM subcommittee during the procurement of vehicles (BMWs) for the transportation of officials. For the first time, cabinet proceedings could be brought into the public arena through a court enforced process, once again highlighting the critical role the courts could play in enhancing the right of access to information.

[23] Interview.

[24] Under the law, the electoral commission is compelled to provide participating parties and candidates with information, including updated registers. However, this is often not done in time, or only provided in part and in soft versions, as was done prior to the 2011 elections when bulky information containing almost 10 million registered voters was given in soft copy with the expectation that the requester would print the material at very high costs. It was also reported in the Global Integrity Report 2008 that access to electoral commission vote registers costs 10 million shillings (US$5,263).

[25] Opcit No. 15 at p.15.

[26] Larsen, Excell, and Veit (2011).

[27] Schedule 2 of the ATI Regulations.

[28] ATI Regulations, Section 3(8).

[29] *Op cit* WRI at p.2.

[30] Interview with the Director and Staff of the Directorate of Information and National Guidance, Ministry of Information, Tuesday June 16th 2009.

[31] Interview with OPM Directorate of National Guidance Officials.

[32] See article 47 and 48 of the ATI Act 2005, page 60–62; CSOs played an active role in expediting the passing of the regulations, beginning in November 2010, when AFIC requested reports from Parliament under Section 43 of the Act on Ministers reporting. This request revealed the noncompliance of the ministers and elicited a promise to enforce the laws this year. Another request was to the Prime Minister's office in February 21, 2011, to which the Prime Minister responded with a request to the Information Minister to provide the information requested under the law. The response from the Minister of Information on April 15, 2011 was, in effect, that they had not complied; this was accompanied by a promise to pass the regulations. During a public dialogue organized by AFIC on May 2, 2011, to mark World Press Freedom Day, the Director for Information and National Guidance, representing the minister, announced that regulations had been gazetted, but it was not until July that they were officially published and released to the public.

[33] See Larsen, Excell, and Veit 2011.

[34] ATI Regulations, S.7(3): the access fee can be waived when the request is in public interest or if the information is likely to benefit a large section of the public; however, no guidelines are provided on these exemptions.

[35] The Public Service Act declares that "it is an offence for any member or officer of the Commission [government department or organization] and any other person to knowingly publish or disclose the contents of any document, communication or information whatsoever that has come to his notice in the course of his duties in relation to the Commission without the written permission of the Minister," Chapter 277, Article 9.

[36] HURINET (2010), p. 20.

[37] Civil Society Organizations and Democratic Consolidation in Uganda, Mesharch W. Katusiimeh.

[38] Interview with ACODE.

[39] Views expressed by journalists in round table discussion on June 18, 2009. There is an ongoing constitutional case filed by the East Africa Media Institute and Andrew Mwenda to declare sedition laws unconstitutional and hence null and void. However, this case has been in the drafting stage in the constitutional court for the last four years; therefore, these sections are likely to remain on the statute books for a while.

[40] The report points out that these two countries are also among the largest recipients of international donor assistance, supporting the argument that aid-dependent countries establish laws and institutions to meet donor requirements but do not necessarily implement them. Despite massive amounts of foreign aid, including a significant amount of aid for good governance and anticorruption efforts, there is little evidence to suggest that ordinary citizens are benefiting from the proliferation of legal and regulatory reforms on paper.

[41] In South Africa, responsibility for the final passage of the law was transferred to the Ministry of Justice, one of the busiest departments of government and one that has proved singularly ill-equipped to master the challenge of implementation.

[42] Cross-reference India case study.

[43] See Mexico case study.

[44] Interview with Director, National Guidance and Information, September 2011.

[45] Approximately US$1.6 million based on current dollar rates.

[46] It should be noted that a difference was evident in the capacities and resources of PROs in line ministries and those in agencies and bodies like the Parliament and NEMA. The latter were specially trained and well-resourced with staff and finances and had sufficient clout and responsibility to make public comments and statements on behalf of their respective organizations.

[47] Interview with CSOs.

[48] Courtesy of information from the interview with the Chief Executive Officer of HURINET (U), Thursday, June 23, 2011.

[49] Interview with NGO Forum.

[50] Interview with Raising Voices.

[51] Wairagala Wakabi. Access to Information in Uganda: Practice Should Match Policy. CIPESA Research Associate 2011.

[52] AFIC.

[53] US$1.1 million to be spent on design review supervision while US$7.6 million will be spent on construction and operationalizing the Center.

[54] Other institutions in the sector to facilitate this process include the Health Policy Advisory Committee, the Uganda AIDS Commission Partnership Committee, the technical working groups, the National Health Assembly, and the Joint Review Missions.

[55] Increasingly, the notion of enforcement has been conflated with supervision or oversight. In the latter, an agency or body is tasked with reviewing compliance and ensuring the proper functioning of the law through training of civil servants, preparation of guidance manuals and materials, public information, and annual reporting. Though some countries have fused the responsibilities for enforcement and oversight into one body.

[56] This section of the discussion drawn from Neuman (2010).

[57] The federal court in the United States, to an administrative court in Bulgaria or to the High Court in South Africa.

[58] The case was originally filed by lawyer and Member of Parliament Abdu Katuntu under Uganda's Access to Information Act, a law he introduced in 2005.

[59] The International Bar Association (IBA), which investigated the level of respect for the principle of judicial independence in Uganda, concluded that "Evidence suggests that the Uganda Government has gone beyond legitimate criticism of court decisions and has intimidated individual members of the judiciary." See IBA (2007).

[60] Interview with CSOs; Danish Ministry of Foreign Affairs DANIDA Access to justice component in Democracy, Justice and Peace Programme Uganda 2006–2010: Component description (October 2005) available at <http://www.

danidadevforum.um.dk/en/menu/Topics/GoogGovernance/Programmes/Country/Programmes/Africa/Uganda/>

(accessed on 11 February 2008) [Hereinafter DANIDA, 2005].

[61] That is according to HURINET (U) and their coalition partners.

[62] Interview with IGG.

[63] Uganda, 2002c, Article 26(1) (a)). Article 23 of the same law empowers the inspectorate to disseminate information on the effects of corruption on society. The law proclaims that information in its possession is privileged. It states: "Subject to any law which enjoys the disclosure of classified information, anything said, information supplied, document, paper or thing produced in the course of inquiry under this Act shall be privileged in the same manner as if the inquiry were a proceeding of court of law, and a report of the Inspectorate shall be privileged in the same manner as if it were a record and judgment of a proceeding in court" (Uganda, 2002c, Article 23).

[64] ATIA Section 46.

[65] Theodore Sekikubo.

[66] Abdu Katuntu.

[67]This avenue provides a real possibility for information on PSAs to finally be publicly shared, even with the existence of the court ruling by the chief magistrate in the Tullow Case.

[68] For instance, the Ministry of Education and Sports has established the Directorate of Education Planning and Statistics (centers for educational statistics and figures) and public information campaigns that consist of the publication of monthly disbursement figures. It conducts regular audits and commissions reports on the flow of funds from disbursement through the entire system.

[69] The kind of information included the local council committee minutes; procedure of district contracts committee; information relating to district hospitals or health centers especially the nonexistence of drugs; oil contracts (Tullow Oil and BIDCO Oil projects ,among other oil related inquiries and operations) and their impact on the environment; development funds (accessing funds from the government's poverty alleviation program and from the NUSAF project for the reconstruction of Northern Uganda); crime and police-related information (detention centers, police procedures; crime statistics, treatment of juveniles, and so on).

[70] Patrick Tumwine of HURINET.

[71] Case of Global Fund recruitment for the PMU.

[72] Interviews with journalists.

[73] Interview with PRO Parliament.

[74] FENU.

[75] Interview with FENU.

[76] Interview with CSO group.

[77] Interview with CSO group.

[78] Interview with CSO group.

[79] Interview with CSO group.

[80] AFIC.

[81] UDN.

[82] Interview with ACCU.

[83] Directorate of Ethics and Integrity 2009.

[84] As an example, AFIC requested information on the ATI regulations in November 2010; by end of January, there had been no response to the request. When AFIC inquired about the status of the request, it was informed that ministers were not reporting on the ATIA because there were no regulations, even though regulations are not a prerequisite for reporting.

[85] When political priorities change and the politics of regime maintenance prevail over constructive state intervention, the sustainability of successful reforms becomes increasingly proble-matic. The Ugandan experience highlights the difficulty of sustaining successful reform initiatives over a long period of time when benign intentions can be compromised by other political prerogatives.

[86] Interview with CSOs.

[87] ACODE.

[88] Caveats are the way in which we characterize "capacity" and "influence"" of civil society; there are no absolute measures. It is a qualitative discussion.

[89] Neuman and Calland (2007). Through the campaign for a legislated right to information, organizations became vested in the law's success, there was more significant buy-in from society, and the laws enjoyed greater credibility and use, although the relative strength of implementation, varies across these countries.

[90] Neuman and Calland (2007). The authors point to the example of Belize. Belize passed its Freedom of Information law in 1994, one of the first countries in Latin America and the Caribbean to do so. It was accomplished with little public or parliamentary debate and no civil society involvement. For the past decade, the law has been used only a handful of times and rarely with success. NGO leaders indicated minimal knowledge of the law and little faith in its ability to promote greater transparency.

[91] It came into being in 2005. The coalition has since grown from a membership of eight CSOs in 2005 to include media and community-based organizations across the country.

[92] National Health Policy (NHP), Health Sector Strategic Plan (HSSP), Millennium Development Goals (MDGs) and Poverty Eradication Action Plan (PEAP).

[93] Interview with CSOs.

[94] Interview with CSOs.

[95] DENIVA.

[96] Section 10.

[97] See Section 7(1).

[98] This engagement can be through existing forums, such as the monthly meeting of the Permanent Secretaries and the regular meetings of the Uganda Local Government Authorities for Local Government Leaders.